

REPORT TO THE LEGISLATURE PURSUANT TO ACT 181 SECTION 37a

Act 181 Transportation Support Study

December 2025

Prepared for

Senate Committees on Economic Development, Housing and General Affairs, on Natural Resources and Energy, and on Transportation

House Committees on Transportation and on Environment and Energy

**Vermont Agency of Transportation
Policy, Planning, and Intermodal
Development Division**



REPORT PREPARATION

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AUTHORIZING LEGISLATION

Act 181 (2024) Sec. 37a. TRANSPORTATION SUPPORT STUDY

(a) On or before December 15, 2025, the Agency of Transportation, after consultation with the Department of Housing and Community Development, the Vermont League of Cities and Towns, the Vermont Association of Planning and Development Agencies, and the Natural Resources Board (Land Use Review Board), shall review the revenue received by the State, both current and projected, for transit support through Act 250 and the revenue and benefits to developers, to the State, and to the community received through transportation impact fees, and shall suggest processes to preserve these revenues, requirements, and benefits.

(b) The Agency shall consider including transportation demand management and subsidy requirements in development review authority for municipalities, the authority or ability of the Agency of Transportation to enforce transportation impact fees as part of the municipal process, and any other proposals.

(c) The Agency shall hear from a diverse group of stakeholders including developers, local government officials, alternative transportation organizations, transit providers, and financial institutions.

(d) On or before December 15, 2025, the Agency of Transportation shall submit a report to the Senate Committees on Economic Development, Housing and General Affairs, on Natural Resources and Energy, and on Transportation and the House Committees on Transportation and on Environment and Energy with its findings and recommendations.

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Table of Abbreviations

AOT	Agency of Transportation (also VTrans)
CATMA	Chittenden Area Transportation Management Association
LURB	Land Use Review Board (current iteration of the NRB)
MPO	Metropolitan Planning Organization
NRB	Natural Resources Board (former iteration of the LURB)
RPC	Regional Planning Commission
TDM	Transportation Demand Management
TID	Transportation Improvement District
TIS	Traffic Impact Study
TMA	Transportation Management Association
UVM	University of Vermont
VAPDA	Vermont Association of Planning and Development Agencies
V.S.A.	Vermont Statutes Annotated

EXECUTIVE SUMMARY

Purpose

In June 2024, the Vermont General Assembly enacted Act 181, significantly reforming the state's land use permitting system by introducing tiered jurisdiction under Act 250. The legislation aims to streamline development review in downtown and village centers as well as Planned Growth Areas (Tier 1A and Tier 1B), shifting transportation impact oversight from state to municipal development review processes.

Section 37a of Act 181 directed the Agency of Transportation (AOT) to:

- Review current and projected revenues from transportation impact fees (Act 145) and transit support through Act 250.
- Assess benefits to developers, the State, and communities.
- Suggest processes to preserve these revenues and benefits.
- Consider transportation demand management (TDM) and subsidy requirements in municipal review.
- Engage a diverse group of stakeholders and report findings to the Legislature by December 15, 2025.

Study Approach

The study consisted of several discrete activities as part of the authorizing legislation. Each of these are considered in the study.

- Consultative Working Group: Representatives from housing, planning, municipal, and natural resource agencies. The Working Group met four times during the study to provide input and identify key stakeholders.
- Stakeholder Engagement: Meetings with AOT staff, Land Use Review Board, land developers, municipalities, transit providers, TDM organizations, and financial institutions.
- Revenue & Benefit Analysis: Historical and projected Act 145 fee collections and potential impacts of Act 181. Benefits to the State, land developers, and the community received through the application of Act 145 impact fees.
- Policy Review: Statutory authority under Act 145, Section 1111 permits, municipal bylaws, alternative revenue mechanisms such as municipal impact fees and Transportation Improvement Districts (TIDs).

Summary of Issues and Considerations

Revenue Impact

Act 145 fees have generated \$1.6M since 2014, averaging \$145K annually—about 1.6% of the capital project costs they support. Estimated revenue loss from Act 181 is modest. Under low growth scenarios the fees may be reduced by \$50K out of a total of \$145k. Under a higher growth scenario the fees may be reduced by as much as \$150K out of a total of \$500k. Transit and TDM funding through Act 250 has been minimal and largely voluntary.

Fair Share & Mitigation Risks

Reductions in Act 250 review in Tier 1 areas increases risk of “last-in” scenarios in the absence of Act 145 statewide impact fees where single development projects on the state system may bear disproportionate mitigation costs. Act 145’s fair-share mechanism and flexibility has improved predictability in permitting. Municipal impact fees provide a local option to address these concerns.

Transit & Transportation Demand Management (TDM) Integration

No Act 145 funds have supported transit capital or operations. TDM and transit is often used as a “carrot” or incentive in land development policy to influence the project design by the way of reducing the number of single occupant vehicles and thus the Act 145 fees assessed to the land development project. Land development primarily funds physical capital strategies (e.g., bus stops, signs, shelters, sidewalks, bike facilities) as opposed to on-going sustained funding for services (e.g., outreach, education, service provision such as on-demand mobility). Review of transit within Act 250 has been limited, and related consultations with transit providers have been inconsistent. Municipalities lack clear standards for multimodal review and mitigation considering TDM and transit.

Local Capacity

Act 181 relies on land development review at the municipal level for the eligible land development projects in the Tier 1 areas. Municipalities require the resources, technical acumen, and legal authority to review the impacts of land development. Stakeholders expressed concern over inconsistent standards and performance measures and mitigation requirements across communities.

Opportunities

Leverage Section 1111 Permits

The State has statutory authority to collect Act 145 fees for projects requiring state highway access permits, but only in conjunction with the development of a Transportation Improvement District (TID). Assessing Act 145 in Section 1111 permits offers a partial solution to collect revenue for state projects and offers flexibility to address mitigation requirements.

Enhance Local Multimodal Standards

Create model bylaws, checklists, and performance measures for municipalities, including guidance on transit and TDM.

Support Local Options including Municipal Impact Fees & Transportation Improvement Districts

Develop guidance for municipalities adopting impact fee programs. Investigate the role of improvement districts in the absence of Act 250 and Act 145 fees for equitable cost sharing.

Formalize Transit Engagement

Investigate bylaws to require applicants with transit service to consult with transit operators. Clarify local review standards of service for transit impacts and mitigation and specify when capital investments vs. service and operational contributions are appropriate.

Sustained Reliable Funding for Transit & TDM

Prioritize statewide or regional funding mechanisms that can provide sustained funding for transit or TDM as opposed to one-off revenues associated with land development. When developer contributions are used, they should favor multi-year agreements or fund capital investments.

Strengthen role of Regional Planning Commissions

Regional Planning Commissions have the technical resources to support complex technical reviews at the local level as well as facilitate the collection and disbursement of developer contributions to fund transportation demand management. The Commissions can serve as regional transportation management associations (TMAs) and coordinate mobility service providers. Lastly, Commissions can assist with the development of regionally specific guidance on transit engagement, transportation demand management strategies, and local performance and service standards.

AOT Participation in Local Review

Ensure AOT is appropriately notified of impactful land development projects and can act as an “interested person” in local permitting for projects affecting state facilities.

Conclusion

While the direct revenue impact of Act 181 is modest, the broader implications for transportation system performance, equity, and multimodal integration are significant. Preserving fair-share principles and minimizing adverse impacts of the “last in” scenario, supporting municipal capacity, and ensuring consistent consideration of transit and TDM along with managing systemwide impacts to the state transportation system are critical to achieving Vermont’s smart growth and mobility goals.

2.0 INTRODUCTION

2.1 AUTHORIZING LEGISLATION

The Vermont General Assembly passed House Bill 687 (referred to as Act 181) in June 2024. Section 37a directs the Agency of Transportation (AOT) to conduct a Transportation Support Study on effects associated with the Act, specifically around revenue and benefits which may be affected by the implementation of Act 181.

Section 37a includes the following questions, which form the organization of this study report:

- (a) On or before December 15, 2025, the Agency of Transportation, after consultation with the Department of Housing and Community Development, the Vermont League of Cities and Towns, the Vermont Association of Planning and Development Agencies, and the Natural Resources Board (Land Use Review Board), shall review the revenue received by the State, both current and projected, for transit support through Act 250 [chapter 5] and the revenue and benefits to developers, to the State, and to the community received through transportation impact fees [chapter 3], and shall suggest processes to preserve these revenues, requirements, and benefits [chapter 7].*
- (b) The Agency shall consider including transportation demand management and subsidy requirements in development review authority for municipalities [chapter 6], the authority or ability of the Agency of Transportation to enforce transportation impact fees as part of the municipal process, and any other proposals [chapter 7].*
- (c) The Agency shall hear from a diverse group of stakeholders including developers, local government officials, alternative transportation organizations, transit providers, and financial institutions [chapter 4].*
- (d) On or before December 15, 2025, the Agency of Transportation shall submit a report to the Senate Committees on Economic Development, Housing and General Affairs, on Natural Resources and Energy, and on Transportation and the House Committees on Transportation and on Environment and Energy with its findings and recommendations.*

2.2 ISSUE BACKGROUND

Act 181 (2024) is part of a suite of Vermont legislative changes alongside Act 47 (2023), known as the “Homes Act,” that modernize permitting, zoning, and regulatory processes to support more housing in well-planned smart growth areas such as downtowns and villages that have traditionally been more compact and walkable places. Act 181 is a significant change to the landmark statewide regulatory framework commonly referred to as Act 250. Specifically, as pertains to this study, Act 181 classifies all land in Vermont into tiers, with each tier having a set of regulatory requirements to guide land development. This study focuses on the changes associated with Act 250 jurisdiction in the Tier 1A and Tier 1B areas.

Act 181 changes what type of land development would be subject to Act 250 regulatory review and permitting. The legislation changes what land use would be exempt from Act 250 review based on type, size, and location of the development. The purpose of Act 181 is to reduce administrative burden by creating one review process at the local level, rather than a two-tiered (local and state) review process. These changes shift more transportation review and mitigation responsibilities to local processes.

2.3 REPORT OUTLINE

The study addresses the following topics and informs the outline of this report.

- State Transportation Impact Fees: Determine the revenue received by the state, both current and projected, through transportation impact fees. Consider the benefits to the state, developers, and the community.
- Stakeholder Engagement: Meet with a diverse range of stakeholders including land developers, local government officials, alternative transportation organizations, transit providers and financial institutions.
- Transit: Consider and suggest processes to preserve these revenues, requirements, and benefits including financial support for transit.
- Transportation Demand Management: Consider transportation demand management and subsidy requirements in development review authority for municipalities.
- Revenue and Benefits: Identify how to preserve the revenue and benefits of transportation impact fees.
- Statutory authority: Review authority or mechanisms to enforce statewide transportation impact fees as part of the municipal review process.
- Key Findings and Opportunities: Conclusions from the study and identify opportunities to achieve desired outcomes of the Act.

2.4 CONSULTATIVE WORKING GROUP

As directed by the legislation, AOT invited representatives from the Land Use Review Board, the Vermont Association of Planning and Development Agencies, the Department of Housing and Community Development, and the Vermont League of Cities and Towns to consult on this study.

Meetings were opportunities for the Working Group to influence stakeholder engagement meeting attendees and discussion topics, react to emerging study findings, and provide perspective and expertise that helped AOT understand the full scope of Act 181 impacts to existing revenue and benefits. The group met four times during the development of this study and were invited to provide feedback throughout the study development. Their feedback has been incorporated into this final report.

3.0 STATE IMPACT FEES

3.1 HISTORY OF TRANSPORTATION IMPACT (ACT 145) FEES

Statewide transportation impact fees have been collected by the State of Vermont since the passage of Act 145 in 2014. The fees, described in 10 V.S.A. Sections 6101-6111, allow the Vermont Agency of Transportation (AOT) and Act 250 District Commissions to establish and assess transportation impact fees under certain circumstances.

The enabling statute created two types of fee options, project specific fees and Transportation Improvement Districts (TIDs). TIDs are discrete geographic areas that include and benefit from VTrans Capital Program transportation projects for which the Agency has established a transportation impact fee. Only project specific fees are in use currently. TIDs have been explored but none have been implemented.ⁱ A District Commission may require an impact fee either at the project or TID level. AOT may only require an impact fee in combination with a TID.

The transportation impact fees enabled by Act 145 are hereafter referred to as Act 145 fees. These fees were originally designed to provide a fair share contribution method when mitigation is needed in the land development review process. Although not the primary purpose, revenue generation was also a benefit. The fee has broad support from communities and stakeholders in the land development process because of its key innovation of establishing a clear and predictable fair share contribution method across the state.ⁱⁱ

Criterion 5A of Act 250 (24 V.S.A Section 6086) requires a proposed development to mitigate transportation impacts that cause unreasonable congestion or unsafe conditions. Act 145 of 2014 created a mechanism by which developers pay a “fair share” cost into existing AOT transportation capital program projects. This reduces the “last one in pays” obstacle by generating revenue for the capital project while providing a pathway to realize the improved operations, and enabling land development to contribute toward proportional mitigation.

The 'last one in pays' approach allowed the first few development projects in an area to consume capacity in the surrounding road network without contributing to the cost of replacing that capacity when necessary. Eventually, one development proposal would trigger the need for mitigation such as a traffic signal or new turn lane and would be responsible for the full cost of improvements. Act 145 addresses the last-one-in dilemma by offering a mechanism to share the cost of transportation improvements among developers and the public that benefit from a

“Last In” Dilemma

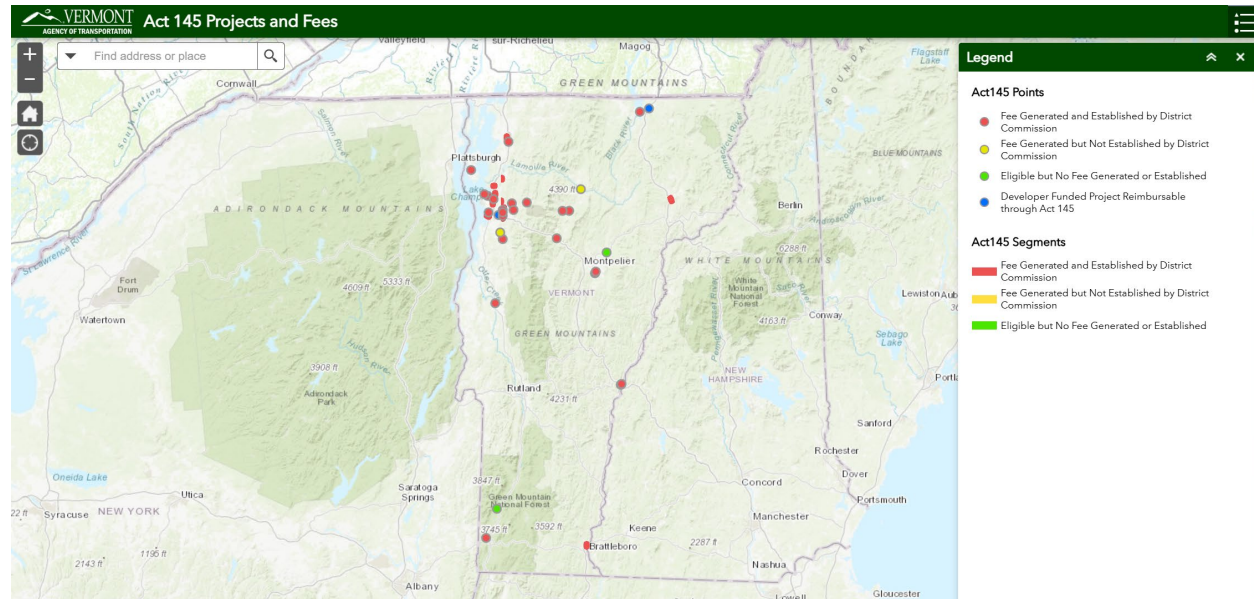
What: When the increment of new users warrants additional capacity that may be out of scale with the level of the land use development.

How: Vermont, like many states, have traditionally used average vehicle delay or other measures, such as vehicle-capacity ratios, to determine when additional capacity is needed to maintain a specific standard of service.

transportation project. It authorized Act 250 District Commission to establish Act 145 fees, effective July 1, 2014.

Figure 1 shows the current map of eligible Act 145 capital projects, located at <https://vtrans.maps.arcgis.com/apps/webappviewer/index.html?id=a74b2eca848e4203ad551911e5824496>

FIGURE 1: ACT 145 PROJECT MAP



Source: AOT

Two types of projects are eligible for Act 145 funding.

- An Act 145 fee can be established for publicly funded transportation projects that are sufficiently defined and included in the latest version of the *VTrans Capital Program* or in a municipal capital program. ⁱⁱⁱ A sufficiently defined project will have enough detail to allow for the development of a reliable cost estimate and capacity calculation. Inclusion in an AOT or municipal capital program ensures that the state or municipality is committed to funding and building the project. AOT annually reviews the Capital Program for eligible projects that both add capacity to the statewide system and is a suitable project to collect impact fee mitigation through Act 145.
- An Act 145 transportation fee can also be established for a transportation project that is funded and built by an applicant as a condition in an Act 250 permit. In this case, the fee would be assessed by Act 250 District Commissions on future development projects that benefit from the developer-built transportation project. The applicant that built the transportation project would receive all future fees. An example of this is the traffic signal at US-5/I-91 in Derby, Vermont and the signal at Community Drive and Kimball Avenue in South Burlington.

Act 145 fees are similar in nature to other impact fees. They can fund only projects that increase net capacity and are used for capital infrastructure; they cannot be used for operational and maintenance purposes.

The revenue collected by Vermont from Act 145 is not expected to cover the full cost of the capital project. For most projects, the cost includes replacing existing capacity (e.g., in the case of widening or changing the intersection control) with only a fraction of the total capacity available for future growth. Therefore, the revenue collected from land development through Act 145 is not sufficient to pay for the full cost of the project. This is intentional in the design, recognizing that although a land use change and growth in traffic arising from that change is the primary driver of the project, the project will benefit existing users, and the cost shall not be borne primarily by the new users. The basic Act 145 transportation impact fee formula^{iv} is:

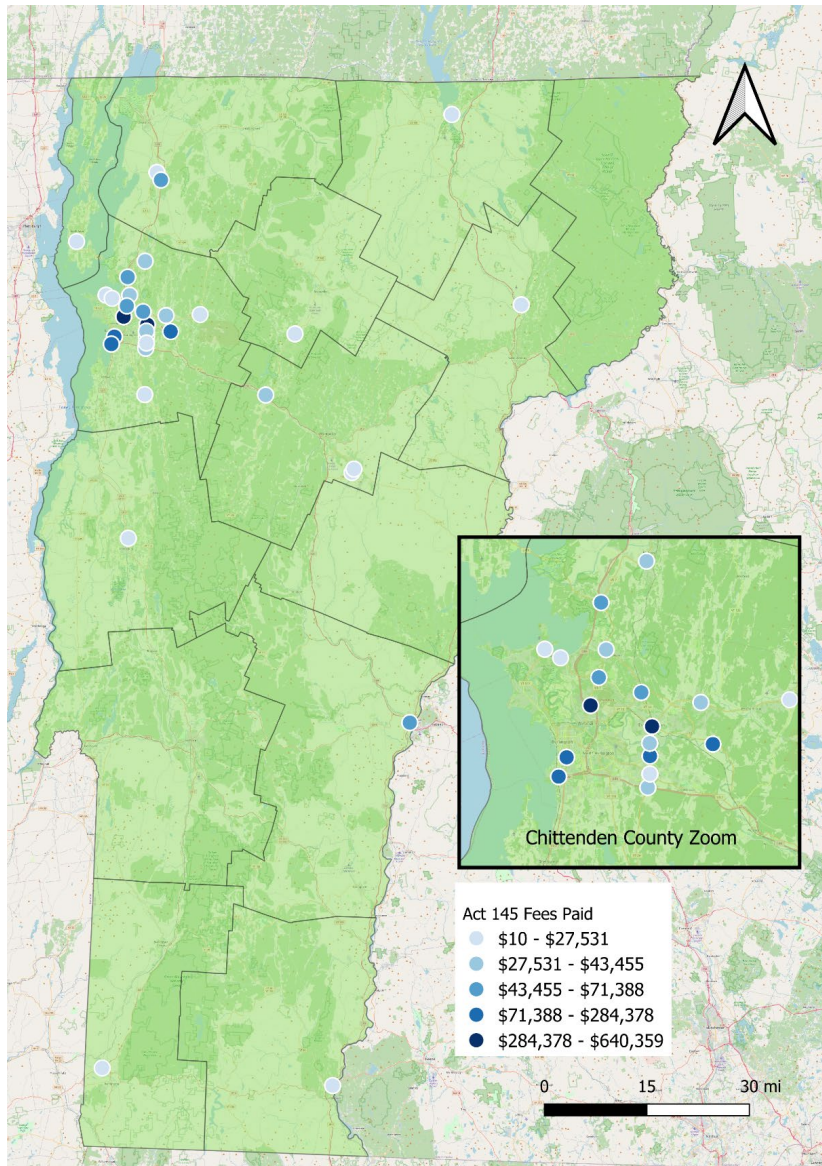
$$\text{Basic Act 145 Fee} = \frac{\text{Total Cost of Transportation Project}}{\text{Facility Capacity during the Peak Hour}}$$

The fee paid by a specific land development project is net of adjustments to the base vehicle trip generation estimated by national sources such as the Institute of Transportation Engineers Trip Generation Manual.^v Specific adjustments in the fee are based on:

- Traffic allocations from existing permits (pre-2014)
- Net change in traffic/trips (pass by or existing site traffic)
- Location in state designated center or neighborhood
- TDM (sidewalk, path, transit shelter, etc.)
- Developer built projects (deduct any improvements they make from the total fee)

The net fee per vehicle trip during the peak hour reflects any of the above adjustments. These adjustments further decrease the revenue collected by the state.

Figure 2 shows the total amount of revenue generated by Act 145 fees for each of the projects enrolled in the program.

FIGURE 2: SUM OF TOTAL ACT 145 FEES PAID BY PROJECT LOCATION

Source: RSG with AOT Act 145 data

3.2 REVENUE AND BENEFITS OF ACT 145

Act 145 was implemented in 2014 to address key issues associated with the “last-in dilemma.” The elegant solution focuses on the costliest projects that benefit a wider community beyond any individual land development project, sharing the burden between parties. It included other legal advantages such as allowing land development to proceed before the physical mitigations are in place and creating a period of 15 years to collect funds before dispersing them. The Act itself included other changes, including updates to Section 1111 permits (19 V.S.A. Section 1111) that enables the state to collect impact fees in permits for work in the state-owned right-

of-way pursuant to the transportation impact fee statute (10 V.S.A. Sections 6101-6111) through TIDs.

The historical context and benefits of Act 145 fees are important, given their emphasis on addressing key permitting and mitigation challenges as opposed to generating revenue.

The following are findings of revenue and benefits of Act 145:

- As of mid-2025, **35 eligible Act 145 projects** (e.g., capital projects) are partially funded through impact fees being collected by AOT and NRB/LURB.
- **\$1.6 million has been collected since 2014, representing around \$145,000** per year contributed to the physical capacity increases of the transportation network. This figure includes only the realized share of phased land use projects. These projects may be assessed a much larger amount due to future phases, but funds are only paid to AOT when the specific phase is permitted. Total assessed fees including projects that include future fees due to project phasing are closer to \$2.30 million.
- The **revenue generated since 2014 represents around 1.6% of the overall capital costs** associated with additional vehicle capacity. Two outliers are the Crescent Connector in Essex, where Act 145 fees have contributed 16% of the total new capacity costs, and the Exit 16 Diverging Diamond Interchange, which is approaching 5.5% of the new capacity costs.
- Act 145 **fee reductions are provided for land development occurring in designated centers** (50% fee reduction) and for including **transportation demand management strategies** (reductions between 5% and 20%). Transportation Demand Management, or TDM, is management of a variety of strategies aimed at maximizing traveler choices that maintains active transportation and shared mobility options that are less reliant on fossil fuels. In Vermont, this can include the maintenance of park and ride facilities, bicycle and pedestrian grant programs, carpool and rideshare programs, multimodal solutions like public transit and rail, and designing for complete streets principles. The fee reduction percentage is higher for more expansive and effective strategies. Approximately \$28,000 of Act 145 fees have been waived due to the construction of eligible TDM projects or stated participation in TDM strategies. Approximately \$330,000 of Act 145 fees have been assessed (not necessarily collected) from projects in designated centers.
- One perceived benefit of Act 250 is the notion of **fairness in reviewing intercommunity impacts of land development**. Act 145 is designed to capture fees from vehicle trips that benefit from the capital project, regardless of the municipal jurisdiction of either the land development or the capital project. Administrative guidance has considered projects within a 3- or 5-mile distance (depending on the size of the land development project) eligible for funding. The distance has been established in administrative rules for Act 145 and is based on the average length of vehicle trips in Vermont. Act 145 fee accounts for all projected trips generated on the network, as opposed to the 75 trip per PM peak hour threshold used to determine when a traffic

impact study is typically required.^{vi} Depending on the travel shed of a project, as few as one or two peak hour trips at the Act 145 project location have been assessed Act 145 fees.

- The 5-roadway-mile radius considered widens the area of impact in the Act 145 process. Larger projects developed closer to shared infrastructure are likely to affect neighboring communities. Of the 261 individual transactions of Act 250 permits that fund specific Act 145 capital projects, 124 of those transactions involve land development projects in a municipality **different** than the one where the Act 145 project exists. South Burlington land development projects make up 69 of those transactions, Essex projects make up 14, and Williston, Winooski, and Milton each make up nine. Chittenden County has most of these situations given the close geographic proximity of Act 145 capital projects.
- Although the geographic impact on traffic can be widespread, it is valuable to consider whether the impact in adjacent communities is meaningful. Historically, a land development that generates more than 75 peak hour trips has been the threshold for warranting congestion and safety analysis. However, most Act 250 land use applications that pay Act 145 fees generate fewer than 75 peak hour trips. The design of Act 145 was to create a level playing field for all developments participating in Act 250 to contribute to the capital project, not only those generating more than 75 vehicle trips per PM peak hour. Some stakeholders remarked that while “no fee is desirable,” the **fairness of assessing all projects** regardless of scale was laudable.
- Fewer than 17% of the Act 250 applicants that have been assessed Act 145 fees have generated more than 75 peak hour vehicle trips.
- The concern of being the “last one in” to consume the limited spare capacity and then bear the burden of upgrading the entire facility was raised by numerous stakeholders. Several community members raised the concerns of incremental land development contributing to an overwhelming of transportation facilities “by a thousand cuts” because no single land development generated 75 or more peak hour trips to warrant a traffic study.

Benefits to Key Audiences

The authorizing legislation for this study seeks to answer the benefits of the Act 145 impact fees for the following audiences: state, developers, and communities.

- State of Vermont
 - Efficiencies in the development review process. For major projects, the mitigation is already determined, and any new vehicle trips benefiting from that capacity can simply pay a fee.
 - Improved certainty and speed of the land development process.
 - Revenue to progress publicly beneficial capital projects.
- Developers

- Improved certainty and speed of the land development process. For the Act 145 projects, there is no need to determine mitigation strategies in the traffic study.
- Avoiding the “last-in” dilemma
- Land development can go forward before the transportation mitigation project is constructed.
- Mechanism to be “paid back” for infrastructure projects that benefit more than the single land development (i.e., Route 5/I-91 signalization in Derby, VT).
- Community
 - Improved certainty and speed of the land development process.
 - Fair share contributions to progress project based on impact, regardless of which community the land development occurs.
 - Can work alongside municipal impact fees.

4.0 STAKEHOLDER ENGAGEMENT

The enabling legislation identified groups to meet with during the development of the study (part c): *“The Agency shall hear from a diverse group of stakeholders including developers, local government officials, alternative transportation organizations, transit providers, and financial institutions.”*

To meet this objective, the following meetings (# is the number of meetings with each group) were held with invited representatives of these identified groups:

- AOT Staff: Land Development & Permitting (1)
- Transit Operators (4)
- Travel Demand Management representatives and service providers (1)
- Developers:
 - Landowners and residential developers (1)
 - Advisors to developers including permit advisors, real estate advisors, civil and transportation engineering firms (1)
- Land Use Review Board (1)
- Municipalities and Regional Planning:
 - Vermont Association of Planning and Development Agencies (VAPDA) Leadership (1)
 - Tier 1A/1B Communities (1)

- Communities exploring tier status (1)
- Financial Institutions (2)

A consultative working group was asked to help identify representatives from each of the stakeholder groups and in some cases connect them to the project team. The appendix includes summaries from the stakeholder meetings.

4.1 SUMMARY OF STAKEHOLDER COMMENTS

The stakeholder input provided valuable insights into the complex nuances of the many interrelated topics associated with land development review. Despite the variety of organizations and perspectives, most of the input was aligned on most topics. The consistency in the topics raised and the opinions of those topics provide confidence in the findings in this study.

The following synthesized comments have been identified:

- Wide agreement that the revenue benefit of Act 145 has not been, and was not intended to be, substantial. Most projects are re-builds or minor capacity expansion.
- Support to preserve the fair share concept. This was especially true for developments near state highways that are presumed to require larger and more costly mitigation, given that state highways are more often designed to maintain higher levels of mobility compared to local facilities that focus on access, with a higher tolerance for delay and congestion.
- Support for the Section 1111 permitting process (19 V.S.A. § 1111 Permitted use of the right-of-way relocation or adjustment orders). There is willingness to see application and scope expand to account for Act 145 projects and manage fair share contributions.
- Support for fees that relate to the land use development process. Act 145 and municipal impact fees are seen positively given their design and relationship to pay for transportation related projects that benefit future users.
- Developers, engineers, and communities are concerned that the “last-In” scenario may arise, especially on larger and more costly roadways. Wide agreement that the Act 145 and municipal impact fees have made the mitigation process smoother.
- Transit has largely not been integrated into the review process at both the state and local levels. Transit providers feel left out and unsure who monitors whether they are impacted by proposed development. Some positive experiences were noted at the local level. AOT’s multimodal review has played a role during Act 250, sometimes finding opportunities to improve designs to better accommodate transit, though this can be challenging if AOT review comes late in the project planning and development process. There is a desire to improve coordination and communication between reviewing bodies and transit operators, especially early in the process.

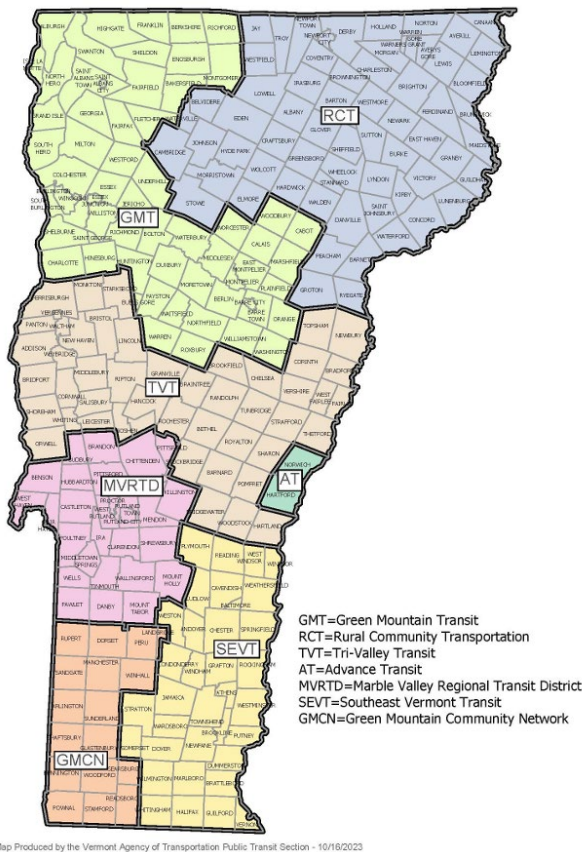
- Funding for ongoing support for transit and TDM should be broad in nature, not focused on land use development and one-time contributions. Annual operating costs are critical to expanding transit service, while impact fees are typically limited to funding capital expenses. If short-term contributions are pursued, benefits should cover several years to establish behaviors (e.g., 5- or 10-year contribution periods).
- TDM stakeholders are less organized across the state with no central authority. TDM has mostly been implemented at the local level, and these initiatives benefit from understanding local context. Several stakeholders noted a role for RPCs to assist in reviewing where TDM makes sense, collecting and administering funding for TDM, and evaluating success of TDM. Wide agreement that additional resources for municipalities would be beneficial to support local considerations of TDM in the land development process. A common theme reinforced the importance of transit in unlocking additional TDM opportunities.
- Stakeholders are familiar with level of service standards, the most common being vehicle-focused using average delay per vehicle, with additional measures when analyzing pedestrians, bicycling, and transit. Most stakeholders (communities, land developers, etc.) noted they are not certain how these standards will be interpreted at the local level. Communities themselves are mostly unsure what standards are to be used in their reviews. Concern was expressed by communities (including those considering Tier 1 status), developers, and engineers as to what the standards are for transportation impact and how to design appropriate mitigation.
- Consistency concerns are widespread. What level of service standards are used? How are transit and TDM accounted for? How can “emotion driven” project review be minimized at the local level? There was wide agreement of the value and consistency that state (i.e., AOT) review has had during the project review process in Act 250.

5.0 TRANSIT

The authorizing legislation seeks to identify how transit has been supported through Act 250 and specifically from Act 145, statewide transportation impact fees.

5.1 TRANSIT IN ACT 250 AND ACT 145

Transit is an essential transportation mode providing access to important job and service centers in most areas of Vermont. It also has been an important travel mode providing low-cost transportation as an alternative to owning and maintaining a private vehicle. Several operators in the state provide public fixed route transit services. Each operator is unique in their organizational configuration, funding sources, and the services they offer. Vermont has seven transit service areas as shown in Figure 3.

FIGURE 3: SERVICE AREAS OF VERMONT'S PUBLIC TRANSPORTATION PROVIDERS

Source: AOT

Transit funding is derived from several sources, with Federal dollars being the primary source. The legislation authorizing this study seeks to identify the role that land development, and specifically Act 145 traffic impact fees, may have in transit funding. The concept of private development partially funding transit is reinforced by the outcomes of the 2021 Steadman Hill report, Transit Financing Study, which looked at the relative benefits of and role that fees on land development could play in offering alternative methods of funding transit.^{vii}

Act 145 is like other impact fee systems in that it limits funding to projects identified in capital programs as opposed to funding on-going operations and maintenance. The source of Act 145 eligible projects is the VTrans Capital Program. Only those that expand vehicle capacity are considered for inclusion within the Act 145 program. At this time, no known Act 145 revenues collected via Act 250 and the District Commissions have been used to fund transit.

Act 250 has had limited effect on transit system development. In some cases, the Act 250 permits may have recognized that the land development applicant offered transit as a partial mitigation strategy, such as in the case of several ski resorts in Vermont. The Hill Institutions in Burlington (Champlain College, University of Vermont, and UVM Medical) are also a unique case where they formed a Transportation Management Association, CATMA, to facilitate transit and parking reforms to minimize adverse impacts on the transportation system. CATMA now facilitates transportation related permitting for the three institutions. Institutional memory among

transit operators (statewide) recalls that many cases where transit has been offered as a partial mitigation solution were primarily offered by the applicant rather than imposed by Act 250 conditions.

Only one Act 250 permit was identified that specifically mandated financial contributions from the land development: the Mt. Snow Grand Summit Hotel^{viii}, which funds the regional transit agency annually at a minimum amount of \$100,000 per year. Most transit operators work directly with major generators of traffic like ski resorts, hospitals, and educational facilities such as the Hill Institutions in Burlington, to negotiate fee agreements for services rendered. Dartmouth Hitchcock Hospital and College were directed during the local development process (New Hampshire communities) to create transit service to mitigate impacts on the transportation system. That funding continues today. While it is unclear what recourse there might be if the funding stopped, there has been widespread agreement that the services provided have been beneficial. It is noted that the benefit has more recently been focused on providing access to work as a workforce and human resources tool rather than a congestion relief and mitigation tool.

Transit operators mentioned that ski areas, namely those in Southern Vermont, Route 103, the Mad River Valley, and around Stowe have financially supported transit that serves their business. Some have agreements with condominium developments and other private locations to provide access to the ski areas, where others are focused on employee and tourist shuttle service. Beyond ski areas and the Hill Institutions in Burlington, most transit operators noted limited success approaching large businesses or other educational institutions to arrange funding for transit services. Successful negotiations are often a result of long-running relationships, trust built over years and demonstrated success at delivering value for the services provided.

Communities and transit operators both noted the success when land development applicants engaged transit operators early in the project development process. Creating opportunities for communication between the parties was considered valuable, regardless of whether physical changes are made in the project or permitting decisions reflect these decisions. Arrangements may be made outside of the permitting process after that initial contact has been made.

The funding derived from pay-for-service agreements is often small relative to the overall budget, but meaningful, especially as they are a source of non-federal funding that can be leveraged in ways that federal funding cannot. The transit operators noted that these contributions from private development and business sources are small but meaningful contributions.

5.2 TRANSIT AFTER ACT 181

The relationship between land development review process and transit system funding and operations is muddled given the lack of clarity of causation. Did the agreements between land development applications and transit systems occur because transit was used to address Section 6086 (Criteria 5A and 5B) standards in Act 250? Did the transportation review

standards at the local level require mitigation of impacts to fund transit? Or did the applicant themselves consider transit holistically in their application from the start?

Will municipalities, without AOT and state review of a Traffic Impact Study or compliance with Act 250 Criterion 5A and 5B, seek transit investments as part of the land development process? What standards do the communities use to seek financial contributions to pay for transit capital infrastructure or on-going services?

The following conclusions regarding transit funding emerge from the analysis in the study:

- Act 145 has not been designed to include transit capital infrastructure.
- Act 250 review has considered transit in the land development process. Criterion 5A mentions congestion and safety. Criterion 5B mentions impacts on transit networks. While not widespread, it is evident that some transit funding and agreements between land development applicants and transit systems has come about because of the role that transit can play to reduce congestion.
- Local municipal review can consider transit in the review process today. However, it is unclear what standards have been used to require transit investments. It will be important for each municipality to determine transit standards of service and thresholds when transit investments or other mitigation are required.
- Most agreements between private land development applicants and transit operators appear to be focused on fees for services provided rather than funding services that mitigate specific impacts.
- Eligible land development exempt from Act 250 occurring in Tier 1A and Tier 1B areas will undergo only municipal land development review. Municipalities can exercise the authority provided to them by Title 24 Chapter 117 Subchapter 7 to consider transit in the land development process.
- Stakeholders have raised concerns about the geographic limitations or boundaries associated with municipal review. Transit operates at a regional scale. One community may require changes to the transit system or one community may allow development to proceed which impacts the regional system. Limited opportunities may exist for other affected communities to provide information during the local development review process.
- Transit operators stressed the value of dependable, sustained funding over several years being far preferable than one-off, single-time funds provided by developers. Broad funding sources are often stable, leading to greater confidence in making investments and sustained behavior changes. There are risks of being reactionary to short-term funding when attracting new users to transit.

6.0 TRANSPORTATION DEMAND MANAGEMENT

The authorizing legislation seeks to identify how Transportation Demand Management (TDM) will be accounted for in the development review of land development by municipalities.

6.1 RESOURCES

TDM is accounted for in AOT's Traffic Impact Study (TIS) Guidelines by considering how transit, walking, and biking can reduce the demand for vehicle trips generated by the land development.^{ix} Appendix E: Level of Service Policy includes a list of TDM strategies that should be considered.

AOT has a standalone TDM Guidance document (February 2016) that offers additional details on the types of applicable strategies and the benefits of the different policies.^x

6.2 TDM IN THE REVIEW PROCESS

AOT has used the TIS Guidelines to inform their review of development impacts during Act 250 process in accordance with Criterion 5B:

(B) As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services. In determining appropriateness under this subdivision (B), the District Commission shall consider whether such a strategy, access, or connection constitutes a measure that a reasonable person would take given the type, scale, and transportation impacts of the proposed development or subdivision.

TDM actions most often take the form of one-time capital elements like sidewalks, street crossings, shared use paths, bike parking, and transit stops. Many of these elements are requirements of local permitting and design standards, but some aspects may be added to the project for the purpose of reducing vehicle trips. Land development going through Act 250 and under AOT review is presumed to consider appropriate TDM strategies to comply with Criterion 5B.

Subject to the powers authorized to each municipality, TDM can be considered in the local land development review process. Municipal review can consider TDM today and can use the resources above in setting their own local standards for TDM. During the stakeholder engagement process it was noted that a handful of communities in the state have developed rules and regulations regarding TDM, including Burlington^{xi} and South Burlington, specifically.

For larger land development applications, it may be more appropriate to consider addition of on-going TDM programming and services (e.g., education, mobility management, micromobility,

on-demand shuttles) to comply with Criterion 5B and reduce the number of vehicle trips associated with the development. This is what led to the creation of the two TMAs in the state, CATMA and Vital Communities. AOT has created a statewide TDM program, GoVermont!, that aims to work with the two established TMAs and coordinate TDM programs and services around the state. It provides important resources such as a trip planning smartphone application, van and carpool services, and provides direct assistance to individual businesses and organizations. Identifying pathways to leverage developer fees, such as Act 145, to support sustained efforts like GoVermont! would be ideal but may require policy changes and is challenged given the removal of Act 250 review from areas most likely to benefit from TDM services.

6.3 TDM AFTER ACT 181

Eligible land development exempt from Act 250 occurring in Tier 1A and Tier 1B areas will undergo only municipal land development review (as opposed to both local and Act 250 review). Municipalities can leverage the resources available from AOT that are used to guide the traffic review occurring today at the state level.

Several stakeholders, including TDM service providers and community representatives, mentioned their interest in guidance that would provide greater contextual value for their applications. The current state guidance may be appropriate for AOT review, but several communities expressed that it was less valuable for their needs. There is an opportunity to provide municipalities, through the regional planning commissions, with improved TDM resource guidance for the local development review process. Regional planning commissions were most frequently the resource cited in the stakeholder meetings to assist municipalities in the local review process.

At the local level, Act 181 does not fundamentally change what municipalities can do in the local review process. What does change, however, is the responsibility at the local level to identify how TDM investments or programs are considered in the development review process, because Criterion 5B will no longer be considered by the Agency in Tier 1A areas. This requires that local communities adopt standards involving TDM and empowers them to create their own standards that may seek to impose ongoing funding requirements to fully utilize and leverage the strength of TDM programs.

7.0 PRESERVATION OF REVENUE & OTHER BENEFITS

The authorizing legislation seeks to identify how to preserve impact fee revenues, requirements, and benefits.

7.1 PROJECTION OF REVENUE

The statewide housing targets (mid and high) developed for each region pursuant to Title 24, Chapter 117, Section 4348a(a)(9) are largely in excess of the recent historical growth rates for the past twenty years. The midpoint range used in some regional plans is often double historical growth. The projection of future revenues associated with Act 145 is extremely challenging to assess given it varies on several factors including the locations for eligible transportation projects, the amount of future growth, and the locations of land development activity that would have triggered Act 250 jurisdiction.

As a reasonable alternative to a more sophisticated approach that attempts to account for these factors, it is possible to presume, in the absence of Act 181 and the changes brought forth in Act 250 jurisdiction, the following:

First, land development that triggers Act 250 would occur in generally the same communities as it has occurred since 2014, when Act 145 was implemented.

Second, the trajectory of Act 145 revenue is likely to be affected by the speed that land development occurs. Two scenarios, one without a statewide Housing Target and one achieving the Housing Target, reflect two different trajectories of land development. The first is based on historical and market trends and represents a historical status quo option; the second is a supply led (“pro-growth”) stimulus.

- Scenario 1: In the absence of the Housing Targets and other policies that create a faster growth rate, nominal revenues may grow at the rate of population growth. The historical growth has generated around \$145k per year, with approximately 20% to 30% of the fees originating in designated growth areas similar to today. An estimated \$30k to \$45K of Act 145 revenue may be reduced because of Act 181.
- Scenario 2: With the Housing Targets^{xii} and other pro-growth policies, the revenues may be two to three times the historical average revenue. This would suggest a maximum annual revenue of \$500k per year (in today’s dollars) if the growth were to occur, and it contributes Act 145 fees pursuant to Act 250 jurisdiction. That revenue, while substantially larger than what is collected today, would still only make up 0.5% of the annual capital expenditure in the VTrans Capital Program for roadway and traffic and safety projects. Noted, that if the pro-growth policies were to increase population and jobs, there may be a need for additional transportation investments.

The Act 145 revenue that may be affected by Act 181 is expected to be a fraction of the overall Act 145 revenue. As noted above, around 20%-30% of the Act 145 annual revenue has been collected from areas that may be exempt from Act 250 in the future (assumed for this analysis to be designated centers). In some cases, Tier 1A areas may be larger than those areas, and in other cases, some designated centers won’t pursue Tier 1A status. At the higher end of the pro-growth Scenario 2, this may mean around **\$100k of lost revenue annually** that might have otherwise been collected through Act 145 (or \$400K instead of \$500k).

7.2 PRESERVATION OF REVENUE

The preservation of lost revenue associated with Act 181 may be accomplished in several ways. The following options consider those identified in the Support Study in addition to ideas derived from conversations with stakeholders. The revenues are considered in three categories: Act 145 revenues, Transit revenues, and TDM revenues.

Act 145 Revenues

The revenues are presumed to be directed to AOT to continue to fund Act 145 eligible capacity projects.

Section 1111 Permit

The **Section 1111 permit**^{xiii} is a direct connection between the Agency and the land development applicant. This permit appears to be the most reasonable candidate to retain the ability to impose Act 145 fees on a land development project.

Pros:

- May increase in the number of applicants paying into Act 145. Existing land development on a state highway that falls below Act 250 thresholds currently are not assessed the Act 145 fee. This may create a stronger sense of “fairness” in that all projects, regardless of size, if they affect the state highway, will contribute to the capital projects.
- Direct connections to state highways and Class 1 Town Highways. Note, AOT has not historically asserted Section 1111 jurisdiction on Class 1 Town Highways.
- Utilizes the current communication between an applicant and the Agency that occurs through the Section 1111 permit process.
- Utilizes the current process for enforcement and payment of fees, although opportunities exist to improve both processes.
- Enabled by existing statute to impose a transportation impact fee, “the Secretary may require a transportation impact fee in accordance with 10 V.S.A. Chapter 151, subchapter 5.” (aka Act 145). Act 145 may need revisions to leverage Section 1111 for areas outside of a TID.

Cons:

- Not all development projects require a Section 1111 permit, so some projects will continue to get a free ride. Two specific conditions trigger the need for a Section 1111 permit from AOT:
 - Development projects that require physical modifications or other activity within the state highway right of way; and

- Development Projects when activity is required in the public right of way of a Class 1 Town Highway and exceeds 75 peak hour vehicle trips. As noted, AOT has not historically asserted jurisdiction in this situation.
- Using the Section 1111 permitting process to collect Act 145 fees will increase the number of development projects paying an Act 145 fee, but will likely miss several development projects in Tier 1A and 1B areas given the density of local streets and the likelihood that the development would not require work in the state right of way.
- AOT issues approximately 500 Section 1111 permits annually. Some portion of these are for work in the right of way, like utility relocation or a sidewalk, that do not generate traffic and would therefore not be eligible for Act 145 fees. Many of those are for single-residential driveways and small commercial driveways that require a Section 1111 permit. It would be administratively burdensome to evaluate all of these to determine if they are close enough to an Act 250 eligible transportation project to pay a fee.

The greatest limitation of using the Section 1111 permit to collect statewide transportation fees for trips affecting Act 145 eligible projects is the share of projects of sufficient size that will meet the thresholds for a Section 1111 permit and are proximate to an Act 145 project. It is an unknown number but, based on conversations with stakeholders (summarized in Task 3 of this study), it is presumed not to be numerous. Many projects are using existing infrastructure which may limit work in the public right of way; infill developments, small developments, and those on town highways streets would not trigger a Section 1111 permit from the State.

Use of the Section 1111 permit would require a revised set of internal administrative rules to guide how the Act 145 fees would be integrated into the existing permit system.

Collecting Act 145 fees through the Section 1111 permitting process may address a perceived lack of fairness overall. However, this option is unlikely to make up for the loss of Act 145 fees from within Tier 1 areas because Section 1111 permits from AOT are not typically required in those areas.

Municipal Impact Fee

Municipal impact fees have been authorized in Vermont in Title 24 Chapter 131. These fees are designed to demonstrate a rational nexus between the impact of land development in the jurisdiction and the types of capital expenditures that can mitigate those impacts and paid for with the fees. They are a land use regulation as opposed to general taxes, with a prescriptive design and legal construction. Beyond the Vermont statute, case law has shaped the application of impact fees nationally. Municipal impact fees could be designed to account for projects on the state system, with revenues returned to the state, as long as the nexus between the land development and mitigation projects are accounted for. The municipality would have to agree to impose, collect, and transfer the fees to the State. In Vermont, there have been examples of communities collecting fees for state projects but assessing only the local share of the capital expenditures (i.e., 20%).

Pros:

- Enabling statute exists and has been in use for decades.
- Flexibility in the design and different approaches (e.g., plan-based, buy-in, consumption see Figure 4) and application to account for multimodal transportation capacity. Provides greater contextual flexibility to address the specific community's goals and transportation vision.
- Designed to address similar issues that led to the creation of Act 145 (last-in, fair share contribution to mitigation)

Cons:

- Fees are traditionally higher given the goal is revenue generation to fund the municipal costs for the transportation infrastructure that mitigates the impact of land development.
- Timelines are shorter (6-year limit to the use of collected funds as opposed to 15 years in Act 145).
- Often designed using plan-based methods to allocate fair share contributions. This requires longer-term planning with some spatial confidence (i.e., how many people, where they will be and what will be the impact on the system) and network deficiency analysis using established standards of service (i.e., volume-to-capacity ratios, average network delay).
- Municipal scale at this time. They haven't been set up or used to share revenue between jurisdictions/municipalities or at larger geographic scales in Vermont (i.e., countywide).
- Establishing and administering municipal impact fees requires a level of staff capacity making it challenging for smaller towns to maintain impact fees and keep them legally compliant.

Limitations of geography and jurisdiction are the two largest impediments to using municipal impact fees for generating funding. The impacts of the land development project are not well accounted for outside of the municipal boundary. It is unclear whether it is legal for one municipal board to impose another community's municipal impact fee, even when impacts outside of the host community are clear. Experience outside of Vermont suggests that intercommunity agreements have been used to share impact fee revenues when the impacts are clearly accruing outside the municipal boundary.

It is unclear whether AOT would be able to ask for funds collected by the municipal impact fee, even for state highway projects. A municipality would be legally required to demonstrate the nexus of including those projects and collect fees to deliver that project. The role of AOT projects and AOT jurisdiction in the municipal impact fee process would require additional investigation. Lastly, if a municipality does not pursue local impact fees, then the State appears to have no authority to require the municipality to develop a local impact fee program. The State is at the discretion of the local municipality to collect impact fees as well as to partner with the State.

FIGURE 4: COMMON IMPACT FEE APPROACHES

Buy-In	Consumption	Plan-Based
<ul style="list-style-type: none"> • New growth is “buying in” to the cost the community already incurred to provide capacity to accommodate future growth. • Most applicable: <ul style="list-style-type: none"> • Communities are approaching build out • Oversized facilities in anticipate of future growth • <u>Otherwise known as:</u> recoupment or cost-recovery. 	<ul style="list-style-type: none"> • Ratio based expansion of existing level of service. <ul style="list-style-type: none"> • i.e., park acres per capita, books per household, square feet per student, etc. • Fee is based on the current cost to replicate current standards (replacement costs). • Provides flexibility as long as the expenditure meets the impact fee legal tests. • Continues the status quo by simply expanding today’s situation out into the future. • <u>Otherwise known as:</u> ratio based, replacement cost, level of service 	<ul style="list-style-type: none"> • Requires a vision for a future growth horizon and what service standards will be provided. Usually reflected in a Capital Improvement Program, Comprehensive Plan, or Master Plan. • Goal to achieve a specific outcome of projects and investments tied to an anticipated amount of development and growth. • Best used when incremental changes won’t suffice and a larger solution can be described

Source: RSG

Transportation Improvement District

Transportation Improvement districts (TIDs), as authorized in Act 145 could be considered as described in Title 10 Chapter 151 Subchapter 5 as an alternative to municipal impact fees. They are designed to be state-determined versions of a municipal impact fee but with custom geographic boundaries.

The planning for a TID would be accomplished in consultation with the applicable regional planning commission and presumably the local municipality. Once established, TID fees would be assessed through the Act 250 permitting process and for any project that requires a Section 1111 permit from AOT. No TIDs have been pursued at this time. A 2019 study was completed by the Chittenden County Regional Planning Commission that explored a TID around the I-89 Exit 12 / Taft Corners area.^{xiv} The study provides several helpful insights into the applicability of the TID and suitability for the purposes of this study.

Pros:

- State alternative to municipal impact fees. It can be designed to work in the same areas as a municipal fee but focuses on state projects.
- Authorized in existing statute
- The primary benefit of a TID is a predetermined financial contribution for off-site development impacts for any land use development application within the TID, so long as the capital projects within the TID effectively mitigate the impacts of the land use development.
- In general, A TID fee is more equitable than a standard Act 145 fee because it also includes assessing fees for development projects in the TID that also need a Section

1111 permit, even if they don't need an Act 250 permit. To be completely equitable, the Act 145 statute could be modified to allow the assessment of state transportation impact fees to all developments in the TID, even if they don't need an Act 250 or Section 1111 permit.

Cons:

- The purpose of the TID needs to be identified, is it revenue or is it a mechanism to minimize 'last-in' issues. Using the same methods as Act 145, revenue was expected to be minimal relative to the cost of the infrastructure (e.g., less than 2% of the cost of the infrastructure noted in the I-89 Exit 12 study), although higher cost shares are possible if agreeable to all stakeholders involved in the creation of the TID.
- The enabling statute identifies the TID fees would be assessed only after a land use project requires a state highway access permit (Section 1111) or an Act 250 permit (which doesn't apply in Tier 1A and Tier 1B areas). This has the same limitations as noted above in the Section 1111 discussion.
- Adopting a TID, and more importantly upon collecting fees, would commit the AOT and the Legislature to fund the implementation of transportation projects that are identified in the TID. These projects would become an automatic high priority and would have to be included in the Capital Program. The AOT project prioritization processes do not currently account for these types of projects whose primary purpose is to support development. Adding these projects to the Capital Program, especially during times when overall transportation funding is limited, could come at the expense of asset management, safety and other types of projects.

Transit Revenues

Historically, Act 250 has played a limited role in the creation or funding of transit service. The Act 250 process has been used to direct applicants to support transit options (i.e., as mitigation in Criterion 5A or acknowledged role of transit in Criterion 5B). However, these decisions and conditions are not imposed by the Act 250 Commission – rather they were either recommended conditions by AOT, the municipality, interested parties (including project opponents), or the applicant. Act 181 Tier 1A and Tier 1B effectively removes certain parties from the land use review permit process – namely – AOT, other adjacent municipalities, and nearby property owners outside of the local permitting jurisdiction. Local review will still consider the municipality's standards and hear from local interested parties and the applicant.

It is unclear as to whether local municipal review must consider transit and how transit is either affected by the project or whether transit can be a mitigating element of a development project. Specifically, municipal bylaws in Title 24, Chapter 117, Sections 4414 Conditional Use, 4417 Planned Unit Development, and 4418 Subdivision do make reference to off-site transportation mitigation. It is up to each municipality to define what they use in the determination as to what is an adverse impact and what mitigation is needed.

The **opportunity exists for a local municipality to require a land development project to fund transit capital or operation expenses.** However, there is no guidance or statute looking at how transit will be affected by or can provide mitigation for the transportation impacts of land development.

Caution was noted by many municipal stakeholders about one-time fees to fund transit. Rather than developer contributions that occur one-time, sustained contributions (either through broad based fees or taxes) are preferred. If one-time fees are pursued, it is recommended that these fees be for transit related capital expenses (like new buses or transit shelters) or if the fees are for operational expenses they are large enough to be spread out for a period of 5 to 10 years.

There is opportunity to provide guidance to municipalities on how to account for transit in the review process. Stakeholders identified several communities in Vermont who use checklists and require applicants to have evidence of project applicants' engagement with the local transit operator. The operator could be asked to provide a letter stating whether the project will adversely affect the system and whether mitigation involving transit is recommended. This is like other public municipal impacts such as education resources, water, etc. That guidance on how transit should be considered can be provided by several parties including the Land Use Review Board, regional planning commissions, and AOT.

Beyond guidance, there is opportunity for explicit legislative language to include transit as a consideration in the municipal bylaws.

TDM Revenues

TDM in the land development process has been focused on incentivizing and requiring multimodal connections between the project and the surrounding transportation system. There has been limited evidence of funding TDM in the land development review process. It is important to distinguish between TDM capital investments to reduce single occupant vehicle trips and sustained on-going efforts to achieve TDM goals. One-off investments are fine for constructing sidewalks, bike lanes, transit stops, bike parking, micromobility systems, and mobility hubs. On-going, sustained funding is necessary for education and outreach, and operational subsidies for car services such as on-demand mobility and car sharing.

Stakeholders representing TDM-related service and planning organizations highlighted the benefits of sustained and dependable funding. One-off funding limits the ability to use the funds most effectively because influencing behavior changes requires time and energy to work with individuals and organizations over a period of time.

TDM is referenced in Act 250 Criterion 5B, it focuses on physical capital investments. Many of these are likely to be required by local municipalities, especially in the locations that would have Tier 1A and Tier 1B status. It is a new **opportunity that municipalities can take advantage of that would enable them to impose operational funding on projects to meet TDM objectives of the community.** Each community will need to determine the service standards and expectations of land development and the nexus between a land development impact and the benefits that TDM activities would have.

TDM may require additional refinement as to how it is used in the local review process. Site Plans mention access and circulation, while other municipal bylaws in Title 24, Chapter 117, Sections 4414 Conditional Use, 4417 Planned Unit Development, and 4418 Subdivision make reference to off-site transportation mitigation. It is up to each municipality to define what they use in the determination as to what is an adverse impact and what mitigation is needed. A check list approach, similar to those used for transit impact evaluation by some municipalities, may be effective for TDM as well.

Funding on-going TDM efforts will require identifying the entity to provide those services. Unfortunately, in most areas of the state, TDM may not have an eligible service provider of TDM education and outreach or provider of mobility services. The regional planning commissions can be an important connector and facilitator to ensure municipalities are aware of TDM providers in the region and to possibly collect and disperse funds. GoVermont! might be able to provide statewide support directly to communities by offering TDM guidance and resources.

TDM stakeholders and service providers need to be involved in the land development review process to effectively identify when TDM funding should be considered. Stakeholders noted that TDM providers have been absent from most Act 250 and local development review processes. At a minimum, there is the opportunity for AOT and regional planning commissions to provide guidance on how TDM is considered in the review process. Beyond that, similar to transit, there could be specific requirements for land development applicants to demonstrate that they engaged with their local TDM organization or regional planning commission regarding TDM.

Summary

Several mechanisms have been identified to maintain some funding for highways through Act 145, as well as transit and TDM; funding that may be affected with the removal of Act 250 jurisdiction in Tier 1A and Tier 1B areas of the state.

- Section 1111 permits appear to be the most feasible option for assessing Act 145 fees on projects that access and require work within the state highway right of way. Eventually, partnerships with key municipalities and regional planning commissions may lead to considering municipal impact fees and transportation improvement districts.
- Transit revenue agreements between land development and transit operations have been limited in the Act 250 process. Municipal review and negotiations for service have been the principal drivers for transit service agreements with specific land development. These can remain to be the principal drivers to increase funding for transit tied to local land development.
- TDM funding through the land development process has centered on the construction of physical assets including sidewalks, bike lanes, and transit stops. Multimodal capital items and operational programs can all be considered at the local municipal level. Depending on the type of application and the authorizing statutes, municipal review can impose fees that mitigate project impacts. It is essential to define the nexus between the impact and the mitigation as well as service standards that set out what level of impact requires mitigation.

7.3 REQUIREMENTS

The changes associated with Act 181 reduce the opportunities for AOT to participate in the land development process by removing Act 250 review from eligible locations in the state. Two key areas benefit from considering additional policies and requirements, statewide transportation impact fees, and local authority to impose mitigation.

- Statewide transportation impact fees will remain in effect for areas of the state remaining under Act 250 review jurisdiction. In these areas, the system will work as it has for the last 11 years. A change to consider will be to leverage the ability to assess Act 145 fees through the Section 1111 permit process, subject to the constraints noted earlier. Processes will need to be developed and documented to evaluate what scale of project is applicable, how coordination and enforcement will happen, and when the impact of a land development project along Class 1 Town Highways would benefit from asserting jurisdiction.
- Local authority to impose mitigation. It is essential that communities have standards by which they evaluate land development impacts to determine what is an appropriate mitigation for adverse impacts. As a Dillon Rule state, municipalities have only the power provided to them via state statute. Specifically, Title 24, Chapter 117 sets out the rules by which municipalities can assess the impacts of land development. Site Plan mentions access and circulation, while other municipal bylaws in Title 24, Chapter 117, Sections 4414 Conditional Use, 4417 Planned Unit Development, and 4418 Subdivision make reference to off-site transportation mitigation. It would be beneficial to make explicit how site plan review should account for off-site transportation impacts. The bylaws also reinforce that mitigation requires standards by which to derive the need to address adverse impacts. Impact fees can derive funds for projects based on local standards for transit and TDM infrastructure and services.

7.4 OTHER BENEFITS OF STATE REVIEW AND ACT 145

These benefits are beyond the revenue that is generated through the Act 145 impact fees:

- **Last-In Dilemma.** Without careful local standards, and local options like municipal impact fees, the risk of 'last-in' scenarios may increase where multiple small developments cumulatively strain facilities until a tipping point is reached. In the absence of eligible Act 145 projects or local impact fees, a land development may be required to address an adverse impact on its own, without fair-share contributions from other applicants that benefit from the transportation project. One scenario is that the community approves the land development project without improvements to the transportation system. Another scenario is that the development project occurs more slowly, at a smaller scale, or doesn't proceed at all because of the financial outlay of the required mitigation.

- **Consistency & Neutrality.** Local review is valuable and important when determining many aspects of land development review. However, it was noted several times that a benefit of Act 250 and AOT review of traffic impacts is the absence of local emotion and influence on what is a technical and analytical process. Local review boards may benefit from partnering with the regional planning commission or other trusted ‘third party’ reviewers to provide an outside perspective. This doesn’t change local control, but it may add value to the process and identify options sometimes too sensitive, too costly, or otherwise too politically challenging to suggest.

8.0 FINDINGS & OPPORTUNITIES

8.1 FINDINGS

The following are findings of the Support Study that result by implementing Act 181 and creating areas of Tier 1A and Tier 1B that will have reduced Act 250 and Act 145 jurisdiction.

- Estimated annual revenue loss from effects of implementing Act 181 is modest. Under low growth scenarios, the fees may be reduced by \$50K out of a total of \$145k. Under a higher growth scenario, the fees may be reduced by as much as \$150K out of a total of \$500k. The reduction will vary depending on the rate of growth and land use change and the number of areas expected to participate in the Tier 1 areas. Revenue loss is not the most important impact of the changes associated with Act 181.
- Impact of removing Act 145 as a development impact strategy could be substantial, particularly around “last in” situations and because Act 145 allows land development projects to be complete and operating before the construction of off-site mitigation projects.
- Using the Section 1111 permit process provides a partial solution to both impacts of lost revenue and fair share contribution to certain projects. The existing Act 145 statute limits the use of Section 1111 permits to collect transportation impact fees only within a TID.
- Transit and TDM can be accounted for in the local land development review process. AOT has limited to no authority to impose financial obligations and contributions for these services at the local level.
- The community benefits of state review of land development could be negatively affected. AOT will have reduced oversight and jurisdiction on land use development in some areas of the state (Tier 1A, Tier 1B) which could negatively impact the performance and safety of the State system. This may affect AOT’s ability to pursue its mission to, “...*provide for the safe and efficient movement of people and goods.*” Beyond the Agency’s own mission, the state has obligations to maintain the performance of the system (e.g., travel time reliability, pavement condition) per Federal requirements.^{xv}

- Act 181 elevates the role and significance of local municipal review of land development impact. Municipal review would benefit from additional resources, technical and legal, to adequately address review of transportation impacts. Municipal review may find circumstances where a land development may have negative impacts beyond the municipal border, or impact state owned facilities.

8.2 OPPORTUNITIES

The following opportunities account for policy or administrative decisions that may mitigate risks or improve favorable outcomes associated with the changes of Act 181.

- Leverage Section 1111 where applicable to collect Act 145 impact fees
 - Amend Act 145 statute to enable AOT to collect fair share fees tied to state facilities when work is required within the state right of way; clarify enforcement pathways and administrative screening to avoid burden on residential or small development.
 - Define scale of applicable development within Tier 1A and Tier 1B areas; acknowledging that smaller land development such as individual households is not the intention of this effort. If a development is outside of a tiered area and will proceed through Act 250, Act 145 can be assessed by the District Commission's rather than Section 1111.
- Establish clear local multimodal review standards
 - Share best practices and model bylaws, checklists, and/or performance measures (vehicular and multimodal) for municipalities, including clear guidance on when and how to consider transit and TDM in mitigation. Confirm municipal authority to consider off-site transportation impacts in all land development situations (site plan, PUD, subdivision, etc.).
 - Support capacity building for local Tier 1A and Tier 1B municipalities with technical support for reviewing project impacts. This could include efforts by AOT or RPCs to provide periodic training or direct support from RPCs.
- Formalize transit engagement
 - Require applicants in transit-proximate areas to consult with the local operator and to request that the operator provide a letter of acknowledgment/impact for projects which may utilize or impact transit (existing or planned); identify when capital vs. service contributions are appropriate.
- Support municipalities in developing impact fee programs with guidance or best practices
 - Where capacity exists, encourage plan-based multimodal impact fees; provide technical assistance, legal templates, and an interjurisdictional exchange mechanism to address cross-jurisdictional/state-facility projects.

- Seek to increase the number of years that communities can collect municipal impact fees before disbursement (6 years currently in VT statute for municipalities compared to 15 years for Act 145 eligible projects).
- Re-evaluate the Transportation Improvement Districts (TIDs) concept
 - Consider state/RPC-led TIDs where a package of capital projects can equitably distribute costs to development, recognizing commitments these impose on the Capital Program. Consider allowing state transportation impact fees to be collected for all development projects in the TID, even if they don't need an Act 250 permit or a Section 1111 permit.
- Sustainable, broad range funding for TDM and transit operations
 - Prioritize stable, statewide or regional funding for TDM education, mobility management (e.g., carpooling matching services), and service operations (e.g., on demand rides); when developer contributions are used, prefer multi-year or capital purposes (e.g., shelters, sidewalks, paths, buses).
- Strengthen the role of RPCs and TMAs
 - Designate RPCs as regional coordinators to vet TDM suitability, manage pooled funds, and monitor outcomes; update the 2016 TDM Guidance manual with region-specific playbooks.
 - GoVermont! along with CATMA and Vital Communities can work to provide statewide leadership on TDM. Providing guidance and service offerings to communities considering TDM in their local development review process.
- AOT participation at the local review process
 - To achieve the Agency's strategic objectives and maintain federally required performance of the system, it is necessary for the Agency to monitor impacts to the statewide transportation network.
 - Develop a regulatory framework to enable VTrans to be an interested person in the local land development review process. Identify the size and scale of impact that would warrant AOT's involvement to reflect the additional demands that this would impose on the Agency. Currently (Per 24 V.S.A. § 4465 a(5)), AOT can participate as an "interested person" in the local development review process to ensure that the AOT can achieve its mission of "...safe and efficient movement of people and goods..." Having AOT involved in the permitting process would be a more effective than in a position of appealing a local decision. The local framework would require AOT to be notified of local applications that may have an impact on the state system and will require AOT to have sufficient staffing to cover the need.

APPENDIX A. EXCERPTS FROM KEY LAWS AND REGULATIONS

Municipal Bylaws

Specifically, Title 24, Chapter 117 sets out the rules by which municipalities can assess the impacts of land development.

Site Plan (4416) mentions access and circulation, but absent other references to off-site traffic impacts and multimodal considerations.

- *...In reviewing site plans, the appropriate municipal panel may impose, in accordance with the bylaws, appropriate conditions and safeguards with respect to the adequacy of parking, traffic access, and circulation for pedestrians and vehicles; landscaping and screening; the protection of the utilization of renewable energy resources; exterior lighting; the size, location, and design of signs; and other matters specified in the bylaws...*

Conditional Uses (Section 4414) specifically mentions traffic, parking, and performance standards. No specific mention of transit or multimodal considerations.

- 3(iii) (iii) *Traffic on roads and highways in the vicinity.*

Subdivision (Section 4418) refers to the standards that have been used in Act 250

- 2(D) *State standards and criteria under 10 V.S.A. § 6086(a);*
- 10 V.S.A. § 6086(a) includes the two criterion regarding traffic and transportation.
 - o (5)(A) *Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, and other means of transportation existing or proposed.*
 - o (B) *As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services. In determining appropriateness under this subdivision (B), the District Commission shall consider whether such a strategy, access, or connection constitutes a measure that a reasonable person would take given the type, scale, and transportation impacts of the proposed development or subdivision.*

Planned Unit Development, (Section 4417) refers to specifically site specific pedestrian, parking, and circulation patterns but more importantly directs the review to use the conditional use or subdivision review process.

- *(2) The development review process to be used for review of planned unit developments to include conditional use or subdivision review procedures, or both, as specified in the bylaws.*
- *(4) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.*

Section 1111

<https://legislature.vermont.gov/statutes/section/19/011/01111>

- *Permits; relocation or adjustment orders.*
- *Permits must be obtained by anyone or any corporation wishing to use as described in this section any part of the highway right-of-way on either the State or town system. Notwithstanding any other statutory requirement, a permit shall be required for any use of any highway right-of-way, consistent with the provisions of this section. In issuing a permit under this section for a use of a State highway right-of-way, the Secretary may require a transportation impact fee in accordance with 10 V.S.A. chapter 151, subchapter 5. Except for this transportation impact fee authority of the Secretary, the authority given to the Board, the Secretary, and the Attorney General under this section shall also apply to the legislative bodies of towns or their designees.*

Section (b) Driveway entrances provides guidance on the performance standards and consideration of safety and congestion.

- *The Agency or legislative body, within their respective jurisdictions, may make such rules to carry out the provisions of this section as will adequately protect and promote the safety of the traveling public, maintain reasonable levels of service on the existing highway system, and protect the public investment in the existing highway infrastructure, but shall in no case deny reasonable entrance and exit to or from property abutting the highways, except on limited access highways, using safety, maintenance of reasonable levels of service on the existing highways, and protection of the public investment in the existing highway infrastructure as the test for reasonableness, and except as necessary to be consistent with the planning goals of 24 V.S.A. § 4302 and to be compatible with any regional plan, State agency plan, or approved municipal plan. However, in any case involving an access permit for a development contributing 75 or more peak hour trips to State highways or class 1 town highways, the permit may include reasonable conditions and requirements to protect service levels on such highways.*

APPENDIX B. STAKEHOLDER ENGAGEMENT

Vermont Act 181 Stakeholder Meeting – Regional Government

16 September 2025

1. Meeting Context and Purpose

The meeting convened regional planning commission (RPC) leaders and transportation planners to discuss the implications of **Act 181** and the removal of **Act 250** jurisdiction in designated areas. The conversation centered on:

- The role of RPCs in supporting transportation planning and development review.
- The future of **Act 145** impact fees.
- Transit and **Travel Demand Management (TDM)** funding.
- Municipal capacity of development review and mitigation strategies.

2. Act 145 and Development Review

Key Issues Raised

- **Act 145** was designed to help developers move through Act 250 by paying mitigation fees rather than completing full infrastructure improvements. Those projects were often larger state level projects rather than municipal imposed projects.
- With Act 250 exemptions under Act 181, **Act 145 may become obsolete**, especially in Tier 1A and Tier 1B areas. A question as to whether Act 145 will go away if the costs to maintain the system outweigh the benefits if the revenue will decline as a result of Act 181.
- Comments about the **loss of revenue** (~\$160k/year) and whether **Section 1111 permits** could replace Act 145's function. The Act 145 revenue is not a concern. Can Section 1111 be the mechanism for still requiring Act 145 contribution.

Stakeholder Perspectives

- Some participants viewed the issue as **overstated concerns**.
- Others emphasized the need to **frame policy questions** for legislators rather than offer a single recommendation. It is critical to understand the original intent of Act 145. It is also important to frame that much of the response at the time of permitting is reactionary and stifles many of the long-term goals of planning. Instead, pro-

active long range planning should be pursued and many of the concerns or issues will be addressed prior to the permitting process.

- There was general agreement that **housing affordability goals** conflict with adding new developer fees. Traffic impact studies, level of service targets, and state impact fees all are counter to the other goals that are being expressed that should incentivize and prioritize additional housing development in the state.

3. Transit and TDM Considerations

Transit Funding

- Transit agencies anticipate **increased demand** due to Act 181 but lack sustainable funding mechanisms.
- One-time developer contributions are common, but **ongoing support is rare**.
- RPCs could play a role in **administering transit contributions**, especially where direct agency involvement is limited.

TDM Funding and Administration

- RPCs expressed **willingness to support regional TDM efforts**, especially through existing structures like **Regional Mobility Committees**.
- Concerns remain about placing the **financial burden on developers**, with preference for **broad-based funding models**. Reduce the emphasis on one-time funding sources and instead look to develop on-going and more sustainable funding sources to meet the needs.

4. Municipal Capacity and Review Authority

Capacity to Review Projects

- Tier 1A and Tier 1B municipalities must demonstrate capacity for local review.
- RPCs offer **technical assistance** but expect most projects to be **small-scale and manageable** locally.
- Some towns lack traffic impact study (TIS) requirements. If they don't have requirements, then they shouldn't need help analyzing the impacts. Typically, these are also communities that will not pursue Tier exemptions.

Shift in Approach

- Stakeholders advocated for a **planning-first approach**, moving transportation considerations upstream from permitting.
- TISs were criticized as **ineffective and exclusionary**, especially to achieve multimodal transportation objectives in walkable downtowns.
- Emphasis was placed on **regional planning and multimodal infrastructure** rather than reactive mitigation.

Inter-Municipal Impacts

- Concerns about traffic spillover into neighboring towns were acknowledged.
- Participants stressed the importance of **regional coordination** and **long-range planning** to address these impacts.

Jurisdictional Gaps

- Without Act 250, municipalities may lack authority to assess **off-site impacts**, especially under **Dillon's Rule**.
- Section 1111 permits could be expanded to address these gaps, but **statutory changes may be needed**.

6. Municipal Impact Fees and Infrastructure Needs

Funding Local Infrastructure

- Municipalities may require developers to build infrastructure (e.g., sidewalks) on site or immediately adjacent, but this is distinct from formal **impact fees**, which center on off-site impacts and fair share contribution to public infrastructure.
- Some towns have **transportation impact fee systems** that allow developers to offset costs by constructing infrastructure.
- There is interest in **regional connectivity** (e.g., bike paths), but funding gaps remain.

7. Final Reflections and Recommendations

General Sentiment

- Many participants felt the concerns around Act 145 and Act 250 were **overstated or manageable**.

- There was a call to **embrace new planning models** and let go of outdated regulatory frameworks.
- RPCs are open to **expanded roles** in transit and TDM administration, but prefer **sustainable funding** over developer-based models.

Potential Actions

- Clarify role that **Section 1111** may have for AOT to monitor key goals around safety and efficient operations of facilities. Municipalities don't have the capacity to take on AOT's role in review of those impacts.
- Encourage **AOT leadership** in advocating for transit and TDM contributions. This would apply throughout the state, beyond Tier 1A/1B areas to other areas that Act 250 and AOT currently maintain jurisdiction over.
- Explore **regional TDM organizations** and partnerships.
- Opportunities to update traffic impact study guidance and provide proactive and creative **guidance to municipalities** on evaluating transportation impacts.

VT Transit Provider Stakeholder Meeting Notes

2 September 2025

Project Overview

- The meeting was part of a study on **Act 181 reforms to VT Act 250**, focusing on how development affects transportation revenue.
- Special attention was given to **transit funding**, particularly the role of **private contributions**.

Transit and Land Use Review

- **Act 145** has not been involved in stakeholders' work to date.
- Transit providers expressed interest in being involved **earlier in development processes**, as they are often brought in too late.
- Land use reviews (e.g., Act 250) have **indirectly shaped transit systems**, especially around ski areas like Mad River, Okemo, and Mt. Snow.
- Larger land use developments, including ski resort contributions are vital to some agencies, though these agreements are often made **outside formal permitting processes**.

Developer Engagement and Contributions

- Transit agencies have had **mixed success** negotiating with developers:
 - Some resorts are cooperative, while others are hesitant. Relationships are long lasting and require time to cultivate and build trust.
 - Housing developments often approach transit **after construction**, rather than during planning.
- One-time contributions (e.g., bus shelters) are easier to secure than **ongoing operational support**.
- Impact fees typically fund **capital expenses**, not operations.
- Some communities have required developers to obtain **letters of support** or issued **letters of impact** to highlight cost implications.

Policy and Review Recommendations

- There is interest in creating **formal mechanisms** to ensure transit is considered in development reviews.
- Suggestions included:
 - Requiring developers to indicate transit impacts in applications.
 - Early sign-off from local transit agencies.
 - Exploring **region-specific approaches** rather than a one-size-fits-all model.

Beyond Ski Areas: Other Partnerships

- Examples of transit partnerships with **large employers** include Dartmouth Medical Center and Dartmouth College. Also the Burlington Hill Institutions (UVM, UVM Medical, Champlain College)
- Past programs included **unlimited transit passes** and **institutional subsidies**, though these have shifted post-pandemic.

Funding Realities

- Contributions from development and business sources are **small but meaningful**, especially as a source of **non-federal funding**.
- Efforts to engage the business community in supporting transit for shift workers have largely **failed**.
- Funding models vary widely by **region and institution**, making generalization difficult.

VT Transportation Demand Management Stakeholder Meeting Notes

12 September 2025

Background & Purpose of the Meeting

- Convened as part of the Act 181 Support Study authorized by Vermont's Transportation Committee.
- Aims to assess impacts of changes to Act 250, especially regarding Travel Demand Management (TDM).
- RSG retained by AOT to lead the study and gather stakeholder input.

Legislative Context

Act 181 and Act 250 Reform

- Tiered exemptions (Tier 1A, 1B) considered to streamline development.
- Tier 1A communities may be exempt from all Act 250 reviews.
- Tier 1B focuses on housing and small mixed-use projects.

Act 145 – Transportation Impact Fees

- Enables fee collection from developments within 5 miles of a transportation project that generates vehicle trips through identified projects.
- Fees used for highway capacity improvements; TDM measures can reduce fees by up to 50% and in designated centers.
- Might municipal impact fees be an option to fund local TDM efforts? Burlington uses multimodal impact fees for sidewalks and bike lanes.

Current State of TDM in Vermont

Use of TDM in Act 250 Applications

- 58 of 159 Act 250 permits used TDM to reduce fees; only 14 in designated centers.
- It appears from the historical data the majority of TDM-related applications are outside areas likely to receive Act 250 waivers. AOT, RPCs, and Act 250 will be involved in the review in those cases.

Municipal Engagement

- TDM inconsistently applied across municipalities.
- Developers sometimes misrepresent TDM measures.
- Municipalities lack capacity and authority to enforce TDM requirements.

Challenges Identified

Authority & Enforcement

- Municipalities may lack legal authority for off-site mitigation.
- Enforcement of TDM commitments is weak or nonexistent.

Funding & Sustainability

- TDM services require ongoing funding; impact fees often insufficient.
- Few examples of perpetual funding commitments.

Capacity & Coordination

- Municipalities and RPCs lack staff and resources.
- TDM providers not consistently engaged during planning or permitting.
- Lack of centralized coordination or unified voice for TDM.

Recommendations & Opportunities

Policy & Legislative Changes

- Incorporate TDM explicitly into Act 250 criteria.
- Develop legislation to mandate TDM consideration in development reviews.

Toolkit & Guidance

- Create statewide TDM toolkit for municipalities and RPCs.
- Include best practices, implementation strategies, and funding models. Consider that there are some TDM measures that don't make sense, or they must come after other services/situations are present first.

Funding Mechanisms

- Explore sustainable funding models beyond one-time impact fees.
- Consider performance-based funding tied to participation and effectiveness.

Organizational Models

- Expand or formalize Transportation Management Associations (TMAs).
- Use RPCs as potential administrators of TDM funds and programs.

Key Themes by Topic

Legislation & Governance

- Reforming Act 250 and integrating TDM.

- Municipal authority gaps and enforcement challenges.
- Need for consistent statewide policy.

Funding & Implementation

- Statewide impact fees and their limitations.
- Sustainability of TDM services.
- Role of developers in funding mobility options.

Coordination & Capacity

- Fragmented TDM landscape across Vermont.
- Lack of centralized leadership or coordination. Limits centralized funding and pooling of resources.

Equity & Accessibility

- TDM must be tailored to local context (urban vs. rural).
- Services must be accessible and meaningful to residents.

Summary: Land Use Review Board Stakeholder Meeting – Act 181 Transportation Support Study

Purpose of the Meeting

This meeting was part of the Act 181 Transportation Support Study, focused on understanding the implications of Act 250 exemptions and the evolving role of the Land Use Review Board (LURB) in Vermont's development review process. Topics included:

- Transit and TDM (Travel Demand Management) in Act 250 permits
- The future of Act 145 transportation impact fees
- Municipal authority and enforcement capacity
- Inter-municipal impacts and regional coordination

Key Themes and Stakeholder Perspectives

Transit and TDM in Act 250 Permits

Consensus:

- Transit and TDM are rarely included as explicit permit conditions under Act 250.
- Most known examples of transit-related mitigation are anecdotal and limited in scope. LURB did not complete in-depth research.
- Stakeholders agreed that **proactive planning** can be more effective than project-by-project mitigation. Project site design and project TDM can also be important factors.

Concerns:

- Transit providers often lack early involvement in site planning.
- Act 250 permits are reactive and do not consistently support transit or TDM funding.
- Act 250 District Commissions don't compel or typically require transit provider participation (however some occasionally elect to participate).

Recommendations:

- Engage transit agencies earlier in the planning process.

- Consider integrating transit and TDM into **regional plans** in addition to individual permits.

Act 145 Transportation Impact Fees

Consensus:

- Act 145 has provided some benefit by allowing development to proceed without requiring full physical mitigation.
- Act 145 has provided benefit to developers by addressing the “last one in” issue
- The fee system is not tracked by Act 250, with most funds going directly to AOT.

The future of traffic mitigation in Tier 1A areas is less clear under Act 181 **Concerns:**

- Act 250 has limited ability to assess Act 145 effectiveness, as it typically does not manage or quantify Act 145 funds.
- The reactive nature of many Act 250 permits can be a limiting factor in proactive infrastructure planning.
- Section 1111 permitting authority is not generally exerted on Class 1 town highways in municipalities

Recommendations:

- Consider alternative mechanisms like **municipal impact fees** or **Section 1111 permits** to address the “last-in” dilemma, in Tier 1A areas (and potentially also for some residential development in Tier B).
- Ensure any supplemental or replacement system is simple and scalable.

Municipal Authority and Enforcement

Consensus:

- Municipal authority to require transportation mitigation is **clear under conditional use criteria but less clear under** site plan review, in the municipalities with such local bylaws.
- Subdivision and Planned Unit Development bylaws reference Act 250 criteria, but site plan review explicitly authorize review of access and circulation but not traffic

and traffic mitigation. See

<https://legislature.vermont.gov/statutes/section/24/117/04416> for “traffic access, and circulation for pedestrians and vehicles”. Does not refer to (D) State standards and criteria under 10 V.S.A. § 6086(a) as in the Subdivision bylaws

<https://legislature.vermont.gov/statutes/section/24/117/04418>. Each municipality has the responsibility to ensure that they use the powers provided to them by statute given Vermont is a Dillon Rule state.

Tier 1A areas keep in place previous Act 250 conditions of approval unless amended by the municipality.

Concerns:

- Inconsistent service standards across municipalities create uncertainty for developers.
- Lack of clear municipal thresholds for when mitigation is required increases legal risk and unpredictability.
- Unclear how future approvals and enforcement of existing Act 250 permit conditions are to occur in Tier 1A areas.
- It is unclear how municipal permit conditions may affect other municipalities or State highways.

Recommendations:

- Investigate statutory gaps in municipal authority, especially under 24 VSA Chapter 117.
- Provide **state-level guidance** on service standards and mitigation thresholds.
- Clarify enforcement responsibilities for existing Act 250 permits in Tier 1A areas.

Inter-Municipal Impacts and Regional Coordination

Consensus:

- Regional impacts from development can be addressed by RPCs in the Act 250 process.
- Regional planning commissions (RPCs) could play a stronger role in coordinating cross-boundary transportation impacts.

Concerns:

- No clear mechanism exists for municipalities to mitigate impacts in neighboring towns.
- No clear mechanism exists for AOT or other municipalities to raise concerns about transportation impacts of land development exempt from Act 250/State review.
- Significant regional impacts are recognized in regional plans but the methods to address regional impacts are unclear at this time in Tier 1A and Tier 1B areas.

Recommendations:

- Use the Regional Plan application process to identify and plan for regional transportation impacts.
- Consider RPCs as potential administrators of regional mitigation strategies or funding mechanisms (i.e., regional impact fees)

Conclusion and Next Steps

The LURB meeting highlighted several systemic challenges and opportunities in Vermont's evolving land use and transportation review framework. Key takeaways include:

- The need for **proactive regional planning** to address transit and TDM.
- Clarification of **municipal authority** and enforcement mechanisms.
- Development of **consistent service standards** and mitigation thresholds as a component of municipal permitting.

Exploration of **alternative funding tools** to replace and/or supplement Act 145, particularly in the Tier 1A areas

Regional Plans are being submitted by the RPCs for LURB determination.

<https://anrweb.vt.gov/ANR/Act250/RPDefault.aspx>

2 results found matching your search criteria. Click [View] for details.

	Application Number	Application Type	Town	Description	RPCNumber	Decision	Status	Status Date
View	RPC08-0001	Reg. Plan, Tier 1B	Bakersfield, Berkshire, Enosburgh, Fairfax, Fairfield, Fletcher, Franklin, Georgia, Grand Isle, Highgate, North Hero, Richford, Saint Albans City, Saint Albans Town, Sheldon, South Hero, Swanton	Northwest Regional Planning Commission draft regional plan preapplication submission.	RPC08		Received	10/03/2025
View	RPC09-0001	Reg. Plan, Tier 1B		Rutland Regional Planning Commission preapplication review for the draft regional plan. Towns requesting tier 1B status - Brandon, Castleton, Fair Haven, Killington, Pawlet, Pittsford, Poultney, Proctor, Wallingford, and West Rutland	RPC09		Pending (In Review)	09/22/2025

The LURB noted that this is the point where municipalities and state agencies (such as AOT) may be positioned to identify where impacts to infrastructure might be expected. It is unclear how to reconcile those potential impacts.

The LURB expressed a shared understanding of the challenges and a willingness to collaborate on solutions. However, many questions remain unanswered, and further legal and legislative clarification may be necessary.

VT Communities Pursuing Tier 1 Status Stakeholder Meeting Notes from Act 181

9/19/25

Meeting Purpose and Context

This meeting was part of the **Transportation Support Study** initiated by the Vermont Agency of Transportation (AOT) to:

- Understand the implications of **Act 250 exemptions** for Tier 1A and Tier 1B communities.
- Evaluate the role and future of **Act 145 transportation impact fees**.
- Explore funding mechanisms for **transit** and **travel demand management (TDM)**.
- Assess municipal capacity to manage transportation review in the absence of Act 250.

Participants included representatives from municipalities pursuing Tier 1A or Tier 1B status.

Act 145: Purpose, Value, and Future

Overview

- **Act 145** allows developers to pay a **fair-share fee** toward state transportation projects.
- It was created to address the “**last-in**” **dilemma**, where one project triggers costly infrastructure upgrades.
- Fees are only applied if the development is near a **capital project** listed in the **State Transportation Improvement Program (STIP)**.

Stakeholder Perspectives

- The revenue generated (~\$160k/year) is **modest** and not significant for large-scale projects.
- While the fee promotes **fairness**, its financial impact is limited.
- There is concern about **overbuilding administrative structures** for a relatively small funding stream.

- Some participants supported retaining the **fair-share concept**, especially in areas with state highways. The presumption being state highways are where the larger and more costly capital projects may need to occur.

Municipal Review and Service Standards

Concerns

- With Act 250 exemptions, municipalities now bear full responsibility for transportation review.
- There is **variation in service standards** (e.g., Level of Service D vs. E) across communities.
- Some towns lack formal standards and rely on **trip generation** or case-by-case assessments.
- Municipalities expressed concern about **inconsistency**, especially in the absence of AOT oversight.
- Difficult to know when **mitigation should be required**. Lack of consistency in standards and approaches.

Recommendations

- Consider **state guidance** or model policies to support consistent local review.
- Recognize the **context-specific nature** of service standards (e.g., urban vs. rural, pedestrian-oriented vs. auto-centric).

Travel Demand Management (TDM)

Current Use

- TDM measures (e.g., sidewalks, bike paths, shared vehicles) are often implemented due to **local zoning**, not to reduce Act 145 fees.
- The TDM **fee reduction** under Act 145 was appreciated but rarely influenced design decisions. Considered more of a ‘good-will’ gesture than carrot to achieve plan goals.
- Enforcement of TDM plans is challenging, especially for **long-term commitments**.

Recommendations

- Provide **state-level education and guidance** on TDM options.
- Develop **context-sensitive strategies** for different types of communities (e.g., transit corridors, industrial parks, walkable downtowns).
- Focus on **physical infrastructure** rather than operational programs for smaller developments.

Transit Funding and Feasibility

Discussion

- Transit requires **ongoing operational funding**, which **impact fees cannot support**.
- Participants opposed placing **transit funding burdens** solely on land development.
- Regional disparities in transit availability (e.g., Chittenden County vs. smaller towns) make **uniform policies impractical**.
- Transit funding should be addressed through **state or regional mechanisms**, not municipal zoning.

Section 1111 Permits and Municipal Impact Fees

Section 1111 Permits

- Currently used for **access to state highways** or when projects generate **75+ peak hour trips**.
- Could serve as a **replacement mechanism** for Act 145 in exempt areas.
- Participants emphasized the need for **clarity and coordination** between AOT and municipalities.

Municipal Impact Fees

- Seen as a potential tool to address the **last-in dilemma** and fund local infrastructure.
- Should remain **optional**, not mandated by the state.

- Recommendation to **extend the time frame** for using municipal impact fees (currently 6 years vs. 15 for Act 145).

7. Summary of Key Insights

- **Act 145** provides fairness but limited financial impact; alternatives should be simple and scalable.
- Municipalities need **support and guidance** to ensure consistent transportation review.
- **TDM** is valuable but should focus on infrastructure and be context-sensitive.
- **Transit funding** should not be tied to local development review.
- **Section 1111 permits** and **municipal impact fees** could help fill gaps left by Act 250 exemptions.

Communities Considering but not yet committed to pursue Tier Status - Stakeholder Meeting – Act 181 Transportation Support Study

October 3, 2025

Purpose of the Meeting

This meeting was part of the Act 181 Transportation Support Study, focused on understanding how communities interested but not yet committed to pursuing Tier 1A or 1B status are managing transportation impacts, transit, and travel demand management (TDM) in the context of Act 250 exemptions. Topics included:

- Act 145 transportation impact fees
- Municipal capacity and authority
- Transit and TDM funding
- Inter-municipal impacts
- Planning and mitigation standards

Key Themes and Stakeholder Perspectives

Act 145 Transportation Impact Fees

Consensus:

- Act 145 fees are tied to specific projects and calculated based on trip generation and proximity to state infrastructure.
- Most communities have limited experience with Act 145; only a few large projects have contributed. Most Act 145 activity has been Chittenden County centric.

Concerns:

- Revenue generated is modest and geographically limited.
- Smaller communities lack experience with Act 145, how it applies or how to replicate its benefits.

Recommendations:

- Maintain transparency on which projects contribute to Act 145.

- Consider alternative mechanisms like municipal impact fees or Section 1111 permits. Most likely the capital projects are on state highways where Section 1111 applies.

Municipal Impact Fees and Mitigation Standards

Consensus:

- Most communities do not currently have municipal transportation impact fees.
- **Mitigation decisions are often ad hoc**, based on DRB discretion, and not guided by formal standards. Mitigation has been very limited and more of a concern of ‘death by a thousand cuts’ rather than any one development having an impact worthy of mitigation. Noted that design standards are available – roadway, intersection, driveway, etc. **These are different than Level of Service or operational standards** to determine when mitigation or a finding of adverse impact is determined.
- Communities have **relied on AOT to monitor cumulative and long-term issues** through Act 250 and other processes such as Section 1111.
- Communities have **struggled to maintain staff and board quorums**, limiting ability to conduct normal business.

Concerns:

- **Lack of service standards** creates unpredictability for developers, potentially legal risk for communities.
- Municipal **capacity to review transportation impacts is limited**, especially in smaller towns.

Recommendations:

- Provide **state-level guidance** or model bylaws to help municipalities establish clear mitigation thresholds.
- Recognize that **many communities rely on AOT** and Act 250 for transportation review.
- One community noted the perceived success that another community has had using municipal impact fees that they were able to build future capacity through that mechanism, while assessing each development for its marginal impact. I.e., even the small incremental development paid their share toward larger mitigation efforts.

Transit and Travel Demand Management (TDM)

Consensus:

- **Transit and TDM are rarely considered** in local development review processes. One community mentioned that Act 250 was the source for a transit requirement to be funded as opposed to the municipal level.
- Most communities lack policies or tools to evaluate or require TDM measures.
- Confusion on **what defines TDM** and counts for Act 145 reductions? What is TDM vs standard site design?

Concerns:

- Funding transit or TDM through land development is not viable, especially for small-scale projects.
- Municipalities perceive lack authority and resources to enforce long-term commitments.

Recommendations:

- Support broad-based funding for transit and TDM rather than tying it to individual developments.
- Provide education and technical assistance to municipalities on TDM strategies.

Municipal Capacity and Planning Support

Consensus:

- Municipal staffing and expertise are limited, making it difficult to take on additional review responsibilities.
- Communities are cautious about pursuing Tier 1B status due to the added burden.

Concerns:

- DRBs often focus on parking rather than traffic impacts. **Each community review has their own topics of interest and concern.**

- Smaller towns simply struggle to maintain quorum and staffing for planning boards. Imposing mitigation, maintaining standards and institutional memory is a key challenge.

Recommendations:

- Regional Planning Commissions (RPCs) should play a stronger role in supporting municipal review.
- **State should provide resources and training** to help municipalities manage transportation impacts.

Section 1111 Permits

Consensus:

- Section 1111 permits are generally understood and accepted for work in state rights-of-way.
- The 75-trip threshold is rarely triggered by small developments, which are the vast majority. Apply to State highways and not Class 1 Town Highways.

Concerns:

- The permit process **may not be sufficient to replace Act 250 oversight.**
- **Cumulative impacts** from multiple small projects may not be well addressed.

Recommendations:

- Clarify the role of Section 1111 permits in post-Act 250 exemption scenarios.
- Consider using Section 1111 as a tool for broader transportation impact review and as a means to apply Act 145 fees.

Inter-Municipal Impacts and Regional Planning

Consensus:

- Inter-community traffic impacts are a concern, especially in areas with high through-traffic. Adjacent communities, tourism and vacation related.
- Act 250 review has been relied upon for assessing and considering wider impacts. Lack of clarity or thought so far about how that might change with Act 181.

- Perception that cumulative impacts of incremental development is the responsibility of AOT.

Concerns:

- Lack of awareness about how the process is changing with Act 181 and how inter-municipal concerns are treated. Communities are reviewing regional plans now **but with limited guidance as to what their role and responsibilities are for that review.**
- Municipalities may lose the ability to influence development impacts once Act 250 exemptions are granted for larger developments. Noted that many Priority Housing Projects are already exempt and they can take many forms and sizes (generating a fair number of vehicle trips).

Recommendations:

- Encourage municipalities to engage in regional plan reviews and voice concerns early.
- Use RPCs to coordinate and address regional transportation impacts.

Conclusion and Next Steps

These communities expressed a shared **concern about the loss of Act 250 oversight and the challenges of assuming greater responsibility for transportation review.**

Consensus that AOT has been relied upon to provide a level of review that these communities have not done in the past. **While most do not currently have the tools or capacity to manage these impacts independently, there is interest in receiving support from the state and RPCs.**

Key Recommendations:

- Provide clear guidance and tools for transportation mitigation and TDM.
- Support regional coordination to address inter-municipal impacts.
- Avoid placing transit and TDM funding burdens on individual developments.
- Strengthen municipal authority and capacity through training and technical assistance.

VT Developers Stakeholder Meeting Notes from Act 181

9/18/25

Meeting Purpose and Context

The meeting was part of a broader **Transportation Support Study** authorized under **Act 181**, which aims to:

- Understand the impacts of removing **Act 250** jurisdiction in designated areas.
- Evaluate the role and future of **Act 145 transportation impact fees**.
- Explore mechanisms for funding **transit and travel demand management (TDM)**.
- Assess municipal capacity to handle transportation review in the absence of Act 250.

Participants included developers, engineers, and consultants with experience in Vermont land development.

Act 145: Purpose, Application, and Developer Experience

Overview

- **Act 145** allows developers to pay a **fair-share fee** toward state transportation projects instead of constructing mitigation infrastructure themselves.
- Fees are only applied if the development is near a **capital project** listed in the **State Transportation Improvement Program (STIP)**.

Developer Feedback

- The fee helps solve the **“last-in” dilemma**, where one land development project triggers costly infrastructure upgrades out of scale with the nature of the land development project.
- While the revenue generated is modest (~\$160k/year), it is **non-federal and leverageable**.
- Developers generally accept fees tied to **tangible benefits**, such as traffic improvements or wastewater connections.

- Concerns were raised about **fee consistency**, as smaller projects nearby may not pay similar fees despite similar impacts. Noted as the general fairness of Act 145, that all Act 250 projects pay, regardless of size. However, the unfairness that only Act 250 projects pay. Municipal impact fees were noted as generally a fairer mechanism given all developments pay regardless of Act 250.

Municipal Impact Fees and Cumulative Burden

Key Points

- Developers reported **significant cumulative fees** (e.g., \$715k for a 36-unit project), often totaling **\$20k per unit**.
- These fees are ultimately passed on to **consumers**, increasing housing costs.
- While some fees (e.g., wastewater, transportation) are seen as justified, others (e.g., prime ag land fees) are viewed as **less defensible**. It wasn't clear what the fees were paying for and if the scale of the fees is commensurate with the impact or burden of review.

Concerns

- Lack of **federal infrastructure funding** shifts the burden to developers.
- The **stacking of fees** from multiple agencies and municipalities creates financial and timeline risks.

Act 250 Exemptions and Development Decisions

Influence on Site Selection

- Developers consider **Act 250 exemptions** when choosing project locations.
- Exemptions reduce **risk, cost, and time**, especially by avoiding **duplicative reviews** and **appeals**.
- Municipalities with Tier 1A or 1B status are more attractive due to **streamlined permitting**. Fees are more manageable when combined with reduced permitting risks.

Risks Without Act 250

- Concerns about **inconsistent municipal review** and lack of technical expertise.

- Potential for less strictly technical review process. Risks of **emotion-driven decisions** and appeals at the local level.
- Developers expressed a general preference for **state-level review** for its consistency and analytical rigor.

Travel Demand Management (TDM)

Current Use

- TDM is required in some municipalities (e.g., Burlington) and can reduce Act 145 fees. Most often around 15% to 20%.
- Developers often incorporate TDM strategies (e.g., sidewalks, bike paths) for **amenity and zoning compliance**, not necessarily to attain a fee reduction. The TDM fee reduction has not been enough of a ‘carrot’ to influence project design.

Limitations

- TDM is more effective in **dense, walkable areas** with transit access. It all starts with transit.
- In suburban or rural areas, **car ownership remains prevalent**, limiting TDM impact.
- Developers cautioned against **statewide mandates**, suggesting TDM should be **location-sensitive**.

Transit Funding and Feasibility

- Act 145 and municipal impact fees currently **do not fund transit operations**.
- Developers were skeptical of placing **transit funding burdens** on land development.
- Emphasis was placed on **equitable funding models**, as transit benefits **all users**, not just new residents.

Municipal Capacity and Review Consistency

Concerns

- Municipalities may lack the **expertise** to review transportation impacts effectively.

- Traffic studies are often **challenged or duplicated**, adding cost and delay.
- Developers suggested **state support or review** (e.g., via AOT) to ensure consistency and fairness.

Planning vs. Permitting

Shift in Philosophy

- Participants supported a shift toward **front-loaded planning**, where transportation impacts are addressed during **zoning and land use planning**, not at the permit stage.
- Long-range planning should guide development, reducing the need for reactive mitigation.

Additional Topics Raised

- Developers flagged insurance and fire safety concerns with **e-bike charging** in multi-family buildings. This was also mentioned during the TDM conversations.
- Suggested exploring **public charging infrastructure** as a solution.

Summary of Developer Perspectives

- **Act 145** is seen as a useful tool when applied fairly and consistently.
- **Development fees** are burdensome when aggregated.
- **Act 250 exemptions** are likely to influence development decisions due to reduced risk and cost.
- **Transit and TDM funding** require on-going, wide support and should not fall solely on developers.
- **Municipal review** needs support to ensure consistency and technical rigor.
- **Planning** should be proactive, not reactive.

VT Land Development Engineers Stakeholder Meeting Notes from Act 181

9/18/25

Meeting Purpose and Context

This meeting was part of the **Transportation Support Study** under **Act 181**, which aims to:

- Assess the impact of removing **Act 250** jurisdiction in designated areas.
- Evaluate the role and future of **Act 145 transportation impact fees**.
- Explore funding mechanisms for **transit and travel demand management (TDM)**.
- Understand municipal capacity to manage transportation review in the absence of Act 250.

Participants included civil engineers and development consultants with experience across Vermont and other states.

Act 145: Purpose, Application, and Value

Overview

- **Act 145** allows developers to pay a **fair-share fee** toward state transportation projects instead of constructing mitigation infrastructure themselves. Key is the timing that the land development can commence without the physical infrastructure being there.
- Fees apply only if the development is near a **capital project** listed in the **State Transportation Improvement Program (STIP)**.

Stakeholder Perspectives

- The fee helps solve the “**last-in**” **dilemma**, where one project triggers costly infrastructure upgrades.
- It enables **shared cost** for large-scale improvements (e.g., Exit 16, Crescent Connector).
- Participants supported the concept of **fair-share contributions**, especially for complex or costly infrastructure.

- However, in the current **housing cost environment**, even modest fees can be prohibitive for **middle-market housing**.

Municipal Impact Fees and Review Consistency

Concerns

- Municipal impact fees are often **higher** than Act 145 fees.
- Municipal review processes are **inconsistent**, vary by town, and are often influenced by **local politics and emotion**.
- Smaller towns may lack the **technical capacity** to review traffic studies effectively.
- Participants expressed a desire for **greater consistency and transparency** in both state and local review processes.

Recommendations

- Provide **state-level guidance** or a **standardized review framework** for municipalities.
- Consider **training requirements** for local development review board members to improve decision-making quality.

Travel Demand Management (TDM)

Current Use

- TDM strategies (e.g., sidewalks, bike paths, transit access) are often implemented due to **local zoning**, not to reduce Act 145 fees.
- The **TDM credit** under Act 145 is appreciated but rarely **influences** design decisions.
- Engineers noted that **quantifying trip reductions** from TDM is difficult and often negligible. Especially for areas outside of transit areas or the densities of Burlington and Winooski, for example.

Limitations

- TDM is more effective in **dense, transit-accessible areas**.

- In most cases, TDM measures are **already required**, making the credit a **bonus**, not a motivator.

Transit Funding and Feasibility

Discussion

- Transit requires **ongoing operational funding**, which **impact fees cannot support**.
- Participants opposed placing **transit funding burdens** solely on new development.
- Suggested that **existing and new development** should contribute equitably through **taxes**, not targeted **fees**.
- Historical examples of developer-funded transit (e.g., Mount Snow, UVM Medical Center) are rare and often voluntary. However, it raises the scale of the land development and a question as to who reviews significantly large developments.

Section 1111 Permits as a Potential Mechanism

Overview

- Section 1111 permits are required for work in the **state right-of-way** or when a project generates **75+ peak hour trips** onto a state highway.
- Currently underutilized for traffic impact review. Focused on physical aspects and safety.

Potential Role

- Could serve as a **replacement mechanism** for Act 145 in exempt areas.
- Participants emphasized the need for **clarity and coordination** with municipalities to avoid confusion or premature permitting requirements.

Planning vs. Permitting: A Shift in Philosophy

Emerging Idea

- Shift transportation review **upstream** to the **planning and zoning stage**, rather than at the permit level. If development complies with long-range plans and zoning, traffic studies may be unnecessary.

- Municipal impact fees could be used to fund planned infrastructure improvements.

Mixed Reactions

- Some participants supported this approach as **efficient and predictable**.
- Others expressed skepticism about its practicality and fairness. If no impact study, how will the true impacts be known?

Summary of Key Insights

- **Act 145** is seen as a useful tool for managing shared infrastructure costs, but its future is uncertain in exempt areas.
- **Municipal review** is inconsistent and often lacks technical rigor; standardized guidance and training are needed.
- **TDM credits** are appreciated but rarely influence design decisions.
- **Transit funding** should not be placed solely on new development; broader funding models are needed.
- **Section 1111 permits** could play a larger role but require clearer implementation.
- A shift toward **planning-based transportation review** may offer benefits but needs careful design.

October 2025

Background & Purpose of the Meeting

- Convened as part of the Act 181 Support Study authorized by Vermont's Transportation Committee.
- Aims to assess impacts of changes to Act 250, especially how financial institutions may be affected or funding of land development may be affected.
- RSG retained by VTrans to lead the study and gather stakeholder input.

Legislative Context

Act 181 and Act 250 Reform

- Tiered exemptions (Tier 1A, 1B) considered to streamline development.
- Tier 1A communities may be exempt from all Act 250 reviews.
- Tier 1B focuses on housing and small mixed-use projects.

Act 145 – Transportation Impact Fees

- Enables fee collection from developments within 5 miles of a transportation project that generates vehicle trips through identified projects.
- Fees used for highway capacity improvements; TDM measures can reduce fees by up to 50% and in designated centers.
- Might municipal impact fees be an option to fund local TDM efforts. Burlington uses multimodal impact fees for sidewalks and bike lanes.

Financial Institution Role in Land Development, Act 145 Fees, and Act 181

Fees in Land Development

- Fees will be passed on to the end owner/tenant. Fees are a temporal shift of burden.
- Fees such as impact fees and other developer contributions challenge the financial picture. Upfront costs are harder to incorporate.
- Acknowledgement that downstream tax increases should also be considered in project financing, but they are less certain.
- All financing aims to look at the total project cost and lifecycle cash flow. Whether the fees are up front or going to be imposed downstream. Both are considered.

Upfront costs are sometimes more difficult for smaller developers because it requires more cash up front.

Development Review Authority

- State review has proven to be more reliable and consistent. Local review is the riskiest aspect of project financing timing and costs.

Benefits & Opportunities

Timing and Efficiency

- Statewide impact fees and municipal impact fees reduce uncertainty in the planning process and can speed up approvals.
- Time is often more important in permitting than the cost.
- Impact fees have a more predictable cost than locally determined project mitigation.
- Surprises can have significant impact on the project progress and impact fees provide a more reliable pathway to address transportation impacts.

Fewer Issues with Transportation Mitigation

- Observations, both quantitative and anecdotal, pointed out that over the past 15 or so years transportation mitigation has been less costly and less of a risk to land development costs.
- Reasons for this are not clear. Thoughts include additional focus on 'infill' land development that is leveraging existing capacity and existing transportation facilities. Towns and regions are seeking more land development and may be willing to trade off economic activity for increased transportation impacts.

APPENDIX C. INTERIM PROJECT MEMORANDUMS

- Task 2 – Revenue Review, September 22, 2025
- Task 3 – Stakeholder Feedback, October 20, 2025
- Task 4 – Revenue Preservation Options, October 23, 2025

MEMO

TO: VTrans
FROM: RSG
DATE: September 22, 2025
SUBJECT: Task 2 – Revenue Review

Background

Act 145 of 2014-Transportation Impact Fees (10 VSA Sections 6101-6111) allows the Vermont Agency of Transportation (VTrans) and Act 250 District Commissions, which are responsible for issuing state land use permits, to establish and assess transportation impact fees under certain circumstances.

This memorandum forms one of several tasks that make up the analysis that has been completed as part of the Transportation Support Study authorized by the Transportation Bill (2024). The study is in response to significant changes to policy and planning that occurred during recent Vermont Legislative sessions due, Act 47 (2023) and Act 181 (2024) which affect permitting, zoning, and regulatory actions intended to spur additional residential development.

This memorandum summarizes Task 2 of the study focusing on the revenue that has been and might be collected by the Agency through Act 145 fees as part of land use development review processes. Task 2 also documents the role that land development review and mitigation requirements have been used to fund public transit service in Vermont.

Subsequent tasks completed as part of the Transportation Support Study are summarized in separate stand-alone memorandums.

History of Act 145 fees

Criterion 5 of Act 250 requires a proposed development to mitigate transportation impacts that cause unreasonable congestion or unsafe conditions. Act 145 of 2014 created a mechanism by which developers pay a “fair share” cost into existing VTrans transportation capital program projects. This reduces the “last one in pays” obstacle as stated by developers. Generating revenue for the capital project while providing a pathway to realize the improved operations and enabling the land development to contribute toward proportional mitigation.

The last-one-in approach allowed the first few development projects in an area to consume capacity in the surrounding road network without contributing to the cost of replacing that capacity when necessary. Eventually, one development proposal would trigger the need for mitigation such as a traffic signal or new turn lane and would be responsible for the full cost of improvements. Act 145 addresses the last-one-in dilemma by providing a mechanism to share the cost of transportation improvements among developers and the public that benefit from a

transportation project. It authorized Act 250 District Commission to establish Act 145 fees, effective July 1, 2014.

One of the original projects that led to the establishment of Act 145 was the Diverging Diamond interchange upgrade at Exit 16 on I-89 in Colchester. The Route 2/7 corridor has a significant level of daily volume and with additional development, several upgrades were identified to maintain acceptable speeds, minimize queues. The scale of improvements well exceeded any one land development's

level of impact and a larger 'fair share' contribution plan was locally established. This was the precedent that lead to action at the state level to provide similar plans in other locations with capital projects identified in the STIP (State Transportation Investment Program).

The mitigation imposed on land development (including changes in land use) can be identified by local (i.e., Development Review Boards, zoning boards) and through state review (i.e., VTrans) in the Act 250 process using Criterion 5 and other relevant criteria. VTrans has maintained authority over state highways and has participated in the development review process through the Development Review and Permitting and Services section.¹ Act 250 criteria have evolved from case law and historical standards set by the Agency such as the Traffic Impact Study Guidelines including the Level of Service standards, and changing expectations on safe and efficient multimodal standards.²

In most cases, project specific mitigation such as site access requirements will be the responsibility of the land use applicant. However, other off-site facilities facing capacity constraints that are approaching or exceeding level of service standards, are those that Act 145 was designed originally to allow for the land use development applicant to contribute toward a solution, and in a fair and equitable manner, as opposed to one applicant coming at the point where the capacity and operational thresholds are exceeded. Task 4 reviews the requirements and standards used to identify when mitigation is required.

Act 145 projects provide public benefits beyond only that of the specific land use development applications that are contributing to its capital costs.³

"Last In" Dilemma

What: When the increment of new users warrants additional capacity that may be out of scale with the level of the land use development.

How: Vermont, like many states, have traditionally used average vehicle delay or other measures, such as vehicle-capacity ratios, to determine when additional capacity is needed to maintain a specific standard of service.

¹ VTrans Development and Permitting Services. <https://vtrans.vermont.gov/planning/development-review-services>

² Vermont Traffic Impact Study Guidelines. <https://vtrans.vermont.gov/sites/aot/files/planning/documents/trafficresearch/TIS%20Guidelines%20Revised%20April%202019%20CGC.pdf>

³ Map of Act 145 Projects. <https://vtrans.maps.arcgis.com/apps/webappviewer/index.html?id=a74b2eca848e4203ad551911e5824496>

Two types of projects can be eligible for Act 145 funding.

- An Act 145 fee can be established for publicly funded transportation projects that are sufficiently defined and included in the latest version of the VTrans Capital Program or in a Municipal Capital Program. A sufficiently defined project will have enough detail to allow development of a reliable cost estimate and capacity calculation. Inclusion in a VTrans or municipal capital program ensures that the state or municipality are committed to funding and building the project.
- An Act 145 transportation fee can also be established for a transportation project that is funded and built by an applicant as a condition in an Act 250 permit. In this case, the fee would be assessed by Act 250 District Commissions on future development projects that benefit from the developer-built transportation project. The applicant that built the transportation project would receive all future fees. An example of this is the traffic signal at US-5/I-91 in Derby, Vermont.

Act 145 fees are similar in nature to other impact fees. They can fund only projects that increase net capacity and are used for capital infrastructure and cannot be used for operational and maintenance purposes. Specific adjustments in the fee are based on:

- Traffic allocations from existing permits (pre-2014)
- Net change in traffic/trips (pass by or existing site traffic)
- Location in state designated center or neighborhood
- TDM (sidewalk, path, transit shelter, etc.)
- Developer built projects (deduct any improvements they make from the total fee)

The Act 145 calculations are based on the cost per trip that the project creates. Much of the cost is consumed in replacing existing capacity, in the case of widening or upgrading existing infrastructure. Therefore, the revenue collected as part of the Act 145 fees is not sufficient to pay for the full cost of the project. This is intentional in the design, recognizing that although a land use change and growth in traffic arising from that change is the primary driver of the project, the project will benefit existing users, and the cost shall not be born primarily by the new users. The basic Act 145 transportation impact fee formula is:

$$\text{Basic Act 145 Fee} = \text{Total Cost of Transportation Project} / \text{Total Capacity} = \$\$\$\$ \\ / \text{Peak Hour Trip}$$

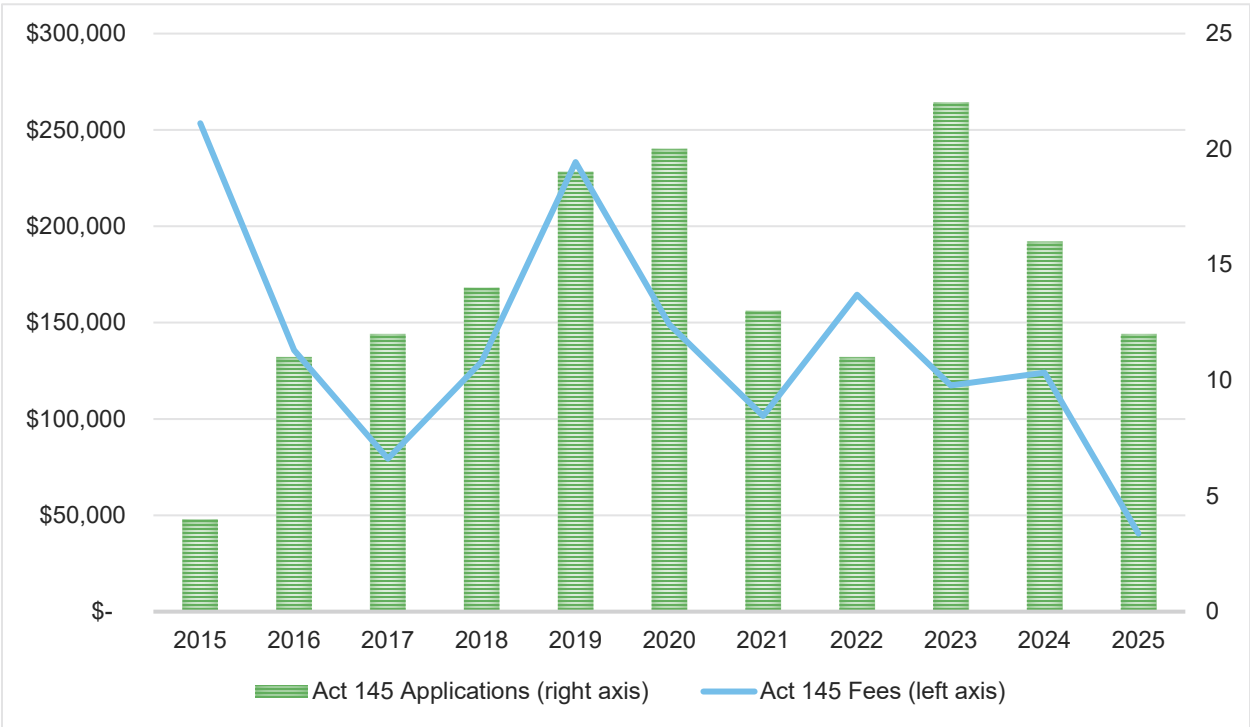
Act 145 revenues have been collected since mid-2014. These revenues have contributed to implementing and offsetting the cost of the VTrans Capital Program projects. Note, because in the majority, if not all of these projects, they expand or add capacity to *existing facilities*, the actual revenue obtained from the marginal increase is insufficient to fund the complete project. Most of the cost of the project is attributed to re-building existing capacity. The majority of the funds are derived from existing users of the system and are funded through the VTrans Capital Budget.

Status of the Act 145 Fee

As of mid-2025, 35 eligible Act 145 projects (e.g., capital projects) are being funded through impact fees being collected by VTrans and NRB/LURB. Approximately, \$1.6 million has been collected since 2014, representing around \$145,000 per year contributing to the physical capacity increases of the transportation network. This figure includes only the realized share of phased land use projects, that may be assessed a much larger amount, but only paid when the specific future phase is being permitted.

Figure 1 shows the annual amount of Act 145 fees and the Act 145 land use permits assessed on land use development projects across the state.

FIGURE 1: ANNUAL ACT 145 FEES AND LAND USE APPLICANTS



Source: RSG with VTrans Act 145 data (Fiscal Years)

An estimated 159 unique Act 250 permits have been assessed Act 145 Impacts Fees (either paid or unpaid), excluding those with expired, denied, or pending permits since Act 145 fees were established. The number of applicants varies by geography, and therefore affecting the projects receiving impact fee funding support. The share of land use applications paying Act 145 fees by infrastructure project is shown in Table 1.

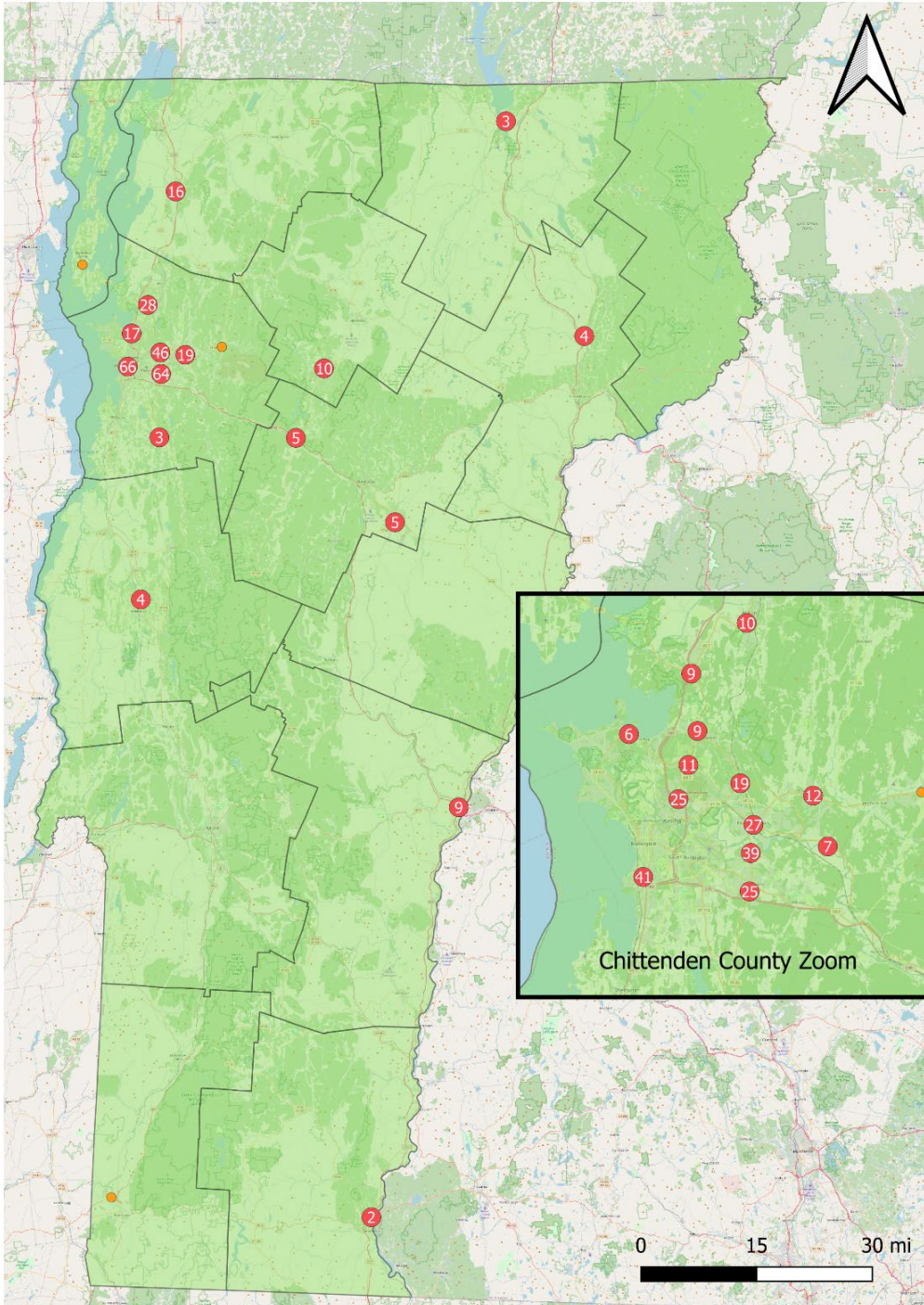
TABLE 1: LAND USE APPLICANTS AND SHARE OF TOTAL

Name	Location	Number of Applicants	Share of Act 250 permits contributing to Act 145 Applications
Barre HES STPG 6100(6)	VT-14 and Bridge St/Sterling Hill Rd.	1	0.38%

Barre MEGC M6000(11)	VT-14 and Quarry Street	3	1.15%
Bennington STP 1000(23) Roundabout	VT-67A/Silk Road/Matteson Rd	1	0.38%
Berlin STPG SGNL (40)	VT 62-Airport Road-Fisher Road	1	0.38%
Brattleboro STP 2000(23)	US-5 Putney Rd. - Brattleboro	2	0.77%
Burlington HES 5000(18) Roundabout	Sheburne Rd, S. Willard St., Locust St.	12	4.60%
Burlington MEGC M 5000(1) Champlain Pkwy	I-189 to Pine & Main St.	20	7.66%
Colchester Exit 16 DDI- HES NH 5600(14)	I-89 Exit 16	20	7.66%
Colchester NH 028-1(31)	I-89 (Exit 17)/US 2/US 7	7	2.68%
Colchester STP 5600 (9) S	US 2/7-VT 2A-Bay Road-Creek Road	9	3.45%
Colchester STP 5600(20)	Prim Road and Lakeshore Drive	4	1.53%
Colchester STP 5600(22)	Bayside Roundabout	2	0.77%
Colchester STPG 5600(17)	US2/7 & Blakely Rd/Severance Rd.	11	4.21%
Essex STP 5300(13) Crescent Connector	Essex Crescent Connector	24	9.20%
Essex STP 5400(10)	VT-117 and N. Williston Rd	6	2.30%
Essex STP 5400(7)	VT 289-VT 2A-Susie Wilson Road	18	6.90%
Essex STPG 030-1(22)	VT-15 and Sand Hill Road	11	4.21%
Hartford NH 020-2(44)	US-4/US-5 Roundabout		0.00%
Hartford STP 0113 (59) S	US 5/Sykes Avenue Roundabout	8	3.07%
Hinesburg HES 021-1(19)	VT-116/CVU Road/Shelburne Falls Rd	1	0.38%
Jericho HES 030-1(21)	US-15/Browns Trace Road	1	0.38%
Lyndonville STP-0113(65)	US-5 Roadway Improvements	3	1.15%
Middlebury NE 019-3(62)	US-7/Exchange St	3	1.15%
Milton STP 5800(3)	US 7/Railroad St/Middle Rd hourglass	9	3.45%
Newport HES 034-2(18)	Main St. and Railroad Square	3	1.15%
Saint Albans Connector HPP 8000(17)	Saint Albans Federal Street Connector	5	1.92%
Saint Albans Roundabout 044-1(2)	I-89 (Exit 19)/SASH-VT 104 Roundabout	9	3.45%
South Hero STP HES 028-1(22)	US-2 Left Turn Lane on Ferry Rd.	1	0.38%
Stowe STPG SGNL(52)	VT-108/Luce Hill Road	4	1.53%
Waterbury STP SGNL (18)	VT-100/West Hill Rd	5	1.92%
Waterbury STP SGNL (18)	US 2/VT 100 Roundabout		0.00%
Williston NH 5500(18)	I-89 Exit 12	11	4.21%
Williston STP 5500(17)	VT-2A & Industrial Ave / Mtn View Dr.	18	6.90%
Williston STP HES 5500(12)	VT-2A & James Brown Dr.	17	6.51%
Williston STPG 5500(14)	US-2 & Trader Lane/Helena Dr.	11	4.21%

Figure 2 shows the number of applicants per Act 145 impact fee project. It is evident the geographic clustering of projects within Chittenden County, and northwestern Vermont in general.

FIGURE 2: NUMBER OF APPLICANTS PER ACT 145 PROJECT



Source: RSG with VTrans Act 145 data

Table 2 shows the Act 145 revenue collected for each of the Act 145 capital projects and the share of the overall fees collected since 2014. The Essex Crescent Connector, I-89 Exit 16 DDI, and Burlington Champlain Parkway are the three highest Act 145 recipient funded projects in terms of overall share of fees collected.

TABLE 2: ACT 145 FEES PAID BY PROJECT

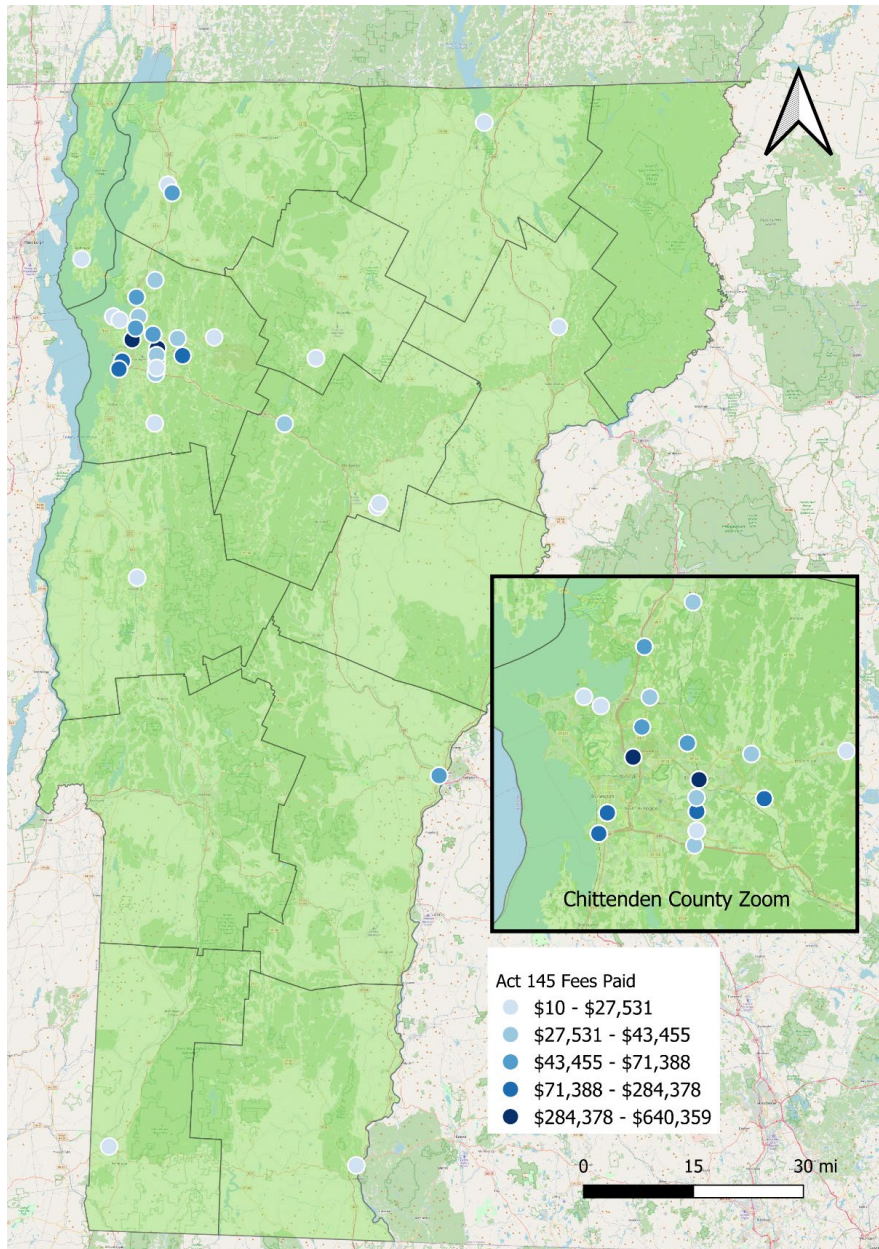
Name	Total Cost (million)	Fee per Vehicle Trip	Location	Act 145 Fees Assessed and Paid*	Share of Overall Fees Assessed
Barre HES STPG 6100(6)	\$3.6	\$ 1,008	VT-14 and Bridge St/Sterling Hill Rd.	\$2,016	0.09%
Barre MEGC M6000(11)	\$5.4	\$ 1,278	VT-14 and Quarry Street	\$7,668	0.33%
Bennington STP 1000(23) Roundabout	\$3.4	\$849	VT-67A/Silk Road/Matteson Rd	\$2,717	0.12%
Berlin STPG SGNL (40)	\$2.1	\$649	VT 62-Airport Road-Fisher Road	\$20,119	0.87%
Brattleboro STP 2000(23)	\$19.3	\$704	US-5 Putney Rd. - Brattleboro	\$18,304	0.79%
Burlington HES 5000(18) Roundabout	\$3.5	\$ 1,217	Shelburne Rd, S. Willard St., Locust St.	\$79,648	3.45%
Burlington MEGC M 5000(1) Champlain Pkwy	\$37.1	\$ 2,069	I-189 to Pine & Main St.	\$ 284,378	12.31%
Colchester Exit 16 DDI- HES NH 5600(14)	\$6.7	\$ 1,266	I-89 Exit 16	\$ 367,317	15.90%
Colchester NH 028-1(31)	\$13.0	\$891	I-89 (Exit 17)/US 2/US 7	\$46,513	2.01%
Colchester STP 5600 (9) S	\$5.2	\$813	US 2/7-VT 2A-Bay Road-Creek Road	\$43,455	1.88%
Colchester STP 5600(20)	\$2.3	\$692	Prim Road and Lakeshore Drive	\$23,701	1.03%
Colchester STP 5600(22)	\$3.3	\$ 1,050	Bayside Roundabout	\$15,540	0.67%
Colchester STPG 5600(17)	\$4.2	\$ 1,071	US2/7 & Blakely Rd/Severance Rd.	\$47,929	2.07%
Essex STP 5300(13) Crescent Connector	\$4.1	\$ 2,788	Essex Crescent Connector	\$ 640,359	27.72%
Essex STP 5400(10)	\$3.2	\$917	VT-117 and N. Williston Rd	\$99,219	4.30%
Essex STP 5400(7)	\$1.7	\$241	VT 289-VT 2A-Susie Wilson Road	\$46,294	2.00%
Essex STPG 030-1(22)	\$1.3	\$415	VT-15 and Sand Hill Road	\$28,489	1.23%
Hartford NH 020-2(44)	\$4.9	\$ 1,753	US-4/US-5 Roundabout	\$ -	0.00%
Hartford STP 0113 (59) S	\$3.3	\$728	US 5/Sykes Avenue Roundabout	\$56,580	2.45%
Hinesburg HES 021-1(19)	\$3.6	\$ 1,109	VT-116/CVU Road/Shelburne Falls Rd	\$1,109	0.05%
Jericho HES 030-1(21)	\$2.6	\$ 1,056	US-15/Browns Trace Road	\$2,904	0.13%
Lyndonville STP-0113(65)	\$10.9	\$875	US-5 Roadway Improvements	\$12,250	0.53%
Middlebury NE 019-3(62)	\$3.4	\$810	US-7/Exchange St	\$13,365	0.58%
Milton STP 5800(3)	\$4.2	\$637	US 7/Railroad St/Middle Rd hourglass	\$41,784	1.81%
Newport HES 034-2(18)	\$0.9	\$400	Main St. and Railroad Square	\$3,600	0.16%
Saint Albans Connector HPP 8000(17)	\$13.5	\$671	Saint Albans Federal Street Connector	\$20,800	0.90%
Saint Albans Roundabout 044-1(2)	\$2.8	\$580	I-89 (Exit 19)/SASH-VT 104 Roundabout	\$71,388	3.09%
South Hero STP HES 028-1(22)	\$0.8	\$159	US-2 Left Turn Lane on Ferry Rd.	\$2,226	0.10%
Stowe STPG 0235(24)	\$1.4	\$493	VT-108/Luce Hill Road	\$ -	0.00%
Stowe STPG SGNL(52)	\$0.6	\$257	VT-100/West Hill Rd	\$8,738	0.38%
Waterbury STP SGNL (18)	\$5.4	\$ 1,276	US 2/VT 100 Roundabout	\$36,969	1.60%
Williston NH 5500(18)	\$2.2	\$243	I-89 Exit 12	\$43,428	1.88%
Williston STP 5500(17)	\$5.0	\$252	VT-2A & Industrial Ave / Mtn View Dr.	\$77,989	3.38%

Williston STP HES 5500(12)	\$2.7	\$189	VT-2A & James Brown Dr.	\$42,215	1.83%
Williston STPG 5500(14)	\$0.7	\$210	US-2 & Trader Lane/Helena Dr.	\$14,947	0.65%
Total				\$2,309,958	100%

**includes full Act 145 for phased projects*

Figure 3 shows the locations and magnitude (dark is higher amount) of total Act 145 fees paid toward each Act 145 project.

FIGURE 3: SUM OF TOTAL ACT 145 FEES PAID BY PROJECT LOCATION



Source: RSG with VTrans Act 145 data

Act 145 has been designed to incentivize or at least recognize the benefits of those land use projects occurring within designated areas for growth, a State Designated Downtown, Village Center, Growth Center, New Town Center, or Designated Neighborhood. If the proposed development is in one of these areas the Act 145 base fee will be reduced by 50%. These zones are included in this map maintained by the Agency of Commerce and Community Development.⁴

Table 3 shows the Act 145 fees assessed broken out by municipality, the share of total fees, whether those fees are associated with applications in designated areas for growth (which accounts for the 50% reduction in cost per trip).

TABLE 3: ACT 145 FEES BY MUNICIPALITY

TOWN	ACT 145 FEES ASSESSED	SHARE OF TOTAL	FEES FROM DESIGNATED AREA
Barre	\$13,518	1%	
Bennington	\$ 2,717	0%	\$2,717
Berlin	\$20,119	1%	
Brattleboro	\$18,304	1%	
Burlington	\$132,027	6%	\$ 35,391
Colchester	\$411,229	17%	\$9,991
Essex	\$447,023	19%	\$ 74,826
Hartford	\$ 3,506	0%	
Hinesburg	\$81,955	3%	\$1,109
Jericho	\$ 2,904	0%	\$2,904
Lyndonville	\$12,250	1%	
Middlebury	\$10,935	0%	
Milton	\$98,989	4%	
New Haven	\$ 6,480	0%	
Newport	\$ 3,600	0%	
Shelburne	\$17,173	1%	
South Burlington	\$710,477	30%	
South Hero	\$ 2,226	0%	
St. Albans	\$100,039	4%	\$2,257
St. Johnsbury	\$ 3,500	0%	
Stowe	\$12,231	1%	
Waterbury	\$36,969	2%	
White River Junction	\$56,580	2%	\$ 56,580
Williston	\$149,745	6%	\$ 105,735
Winooski	\$44,137	2%	\$ 41,797
Grand Total	\$2,398,634	100%	\$ 333,306

⁴ ACCD Designated Communities.
<https://maps.vermont.gov/ACCD/PlanningAtlas/index.html?viewer=PlanningAtlas>

The fees in Table 3 include several applicants with development projects that physically occur in one community's state designated center but impact other communities in terms of the reach and effect of the trips being generated. This most often occurs within Chittenden County given the number of projects and the relative close proximity of those projects.

Travel Demand Management

The State has recognized the benefits to the system to encourage fewer single occupant vehicle trips through travel demand management. The Act 145 fees have been discounted between 5% and 20% when an applicant includes travel demand management strategies as part of the permit conditions or application. This discount is intended to be a recognition of desirable activities as well as an incentive to encourage applicants to consider when TDM strategies can be applied.

Approximately, \$28,000 of Act 145 fees have been waived due to construction or participation in TDM strategies. These strategies are shown in Appendix A.

58 unique applications leveraged the available TDM reductions, 14 of which are within designated centers. The fact that only 14 of the 58 applicants using TDM are in designated centers suggests that even as Act 181 is implemented, it is reasonable to assume that the TDM reduction incentive is a valuable tool to recognize when the applicant uses TDM strategies.

Transit Revenue

Transit funding is derived from several sources, with Federal dollars being the primary source. The Act 181 legislation authorizing this Support Study seeks to identify the role that land development contribution and specifically the role Act 145, may have to funding transit. This section of the memorandum explores the role that land development has had on transit funding. This finding reinforces outcomes from the 2021 Steadman Hill report, Transit Financing Study, involving the relative benefits and role that fees on land development could play in offering alternatives to today's methods of funding transit.⁵

Act 145 is similar to other impact fee systems that limit funding to projects identified in capital programs as opposed to funding on-going operations and maintenance. No known Act 145 revenues collected via Act 250 and the District Commissions have been used to fund transit. There has been discounts in the assessed Act 145 fee for the use of private shuttles or by benefiting proximity to existing transit service.

Act 250 has had limited effect on transit system development. In some cases, the Act 250 permits may have recognized that the land development applicant offered transit as a partial

⁵ https://studiesandreports.ccrpcvt.org/wp-content/uploads/2021/12/Transit_Funding_Report_Dec2021.pdf

mitigation strategy, such as in the case of several ski resorts in Vermont. The Hill Institutions in Burlington being a unique case where they were able to form a Transportation Management Association, CATMA, to facilitate transit and parking reforms to minimize adverse impacts on the transportation system. Institutional memory among transit operators recall that the majority of cases where transit has been offered as a partial mitigation solution was primarily a method offered by the applicant rather than imposed by Act 250 conditions.

Only one permit was identified that specifically mandated financial contributions from the land development, the Mt. Snow Grand Summit Hotel⁶, to annually fund the regional transit agency at a minimum amount of \$100,000 per year. The majority of systems now work directly with major generators of traffic, with ski records, and the Hill Institutions in Burlington, to negotiate fee agreements for services rendered. Dartmouth Hospital and College both were directed through the local development process (New Hampshire communities) to create transit service to mitigate impacts on the transportation system. That funding continues today. While it is unclear what recourse there might be if the funding stopped, there has been widespread agreement that the services provided has been beneficial. It is noted that the benefit has more recently been focused on providing access to work as a workforce and human resources tool rather than a congestion relieve and mitigation tool.

Transit operators mentioned that ski areas, namely those in Southern Vermont, Route 103, and the Mad River Valley, and around Stowe have financially supported transit services that serve their business in some way. Some have agreements with condominium developments and other private locations to provide access to the ski areas, where others are focused on employee and tourist shuttle service. Beyond ski areas and the Hill Institutions in Burlington, most transit operators noted limited success approaching large businesses or other educational institutions to arrange for funding for transit services. Successful negotiations are often a result of long-running relationships, trust build over years, and demonstrated success at delivering value for the services provided.

The local funding derived from these pay for services agreements are often small relative to the overall budget, but meaningful, especially as they are a source of non-federal funding that can be leveraged. The transit operators have noted that the contributions from development and business sources are small but meaningful contributions.

Transit in the Permitting Process

Act 250 (Section 6086) criterial 5B does specifically reference transit networks and services (in addition to transportation demand management, sidewalks, and bicycle networks). Although this criterion is there, the majority of transit operators mentioned that they rarely are involved in the permitting process. There is greater interest in creating formal mechanisms to ensure that transit is considered in land development review, at the Act 250 level and at the local level.

This could take various forms. In one example, some communities have required developers to obtain letters of support or issued letters of impact to highlight cost implications. Other ideas

⁶ <https://anrweb.vt.gov/PubDocs/ANR/SPTemp/2W0359-35%20findings.pdf>

include, requiring developers to indicate level of transit impact in applications and ‘sign-off’ from local transit agencies. The challenge is that each region and transit system operates sufficiently different from each other it is difficult to make a one-size fits all approach. It is important that each transit system defines what works for them and then brings that system into the permitting and land development review process.

Effects of Act 181 on Act 145

Later tasks in this Support Study will further analyze the effects that Act 181 may have on Act 145 Impact Fees. Preliminary findings include the following observations:

- Around \$150,000 per year has been collected through the Act 145 Impact Fee program and used to expand the transportation capacity of the highway system. The revenue generated since 2014 represents around 1.6% of the overall capital costs associated with additional vehicle capacity. The outliers being Crescent Connector in Essex, where Act 145 fees have contributed 16% of the total new capacity costs and the Exit 16 DDI approaching 5.5% of the new capacity costs.
- 35 capital transportation projects have been identified that are eligible for assessment of Act 145 Impact Fee program.
- Act 181 will guide when Act 250 is in effect or not. In the areas identified as Tier 1A and Tier 1B, if an eligible land development occurs physically based in those areas, then the project would be exempt from review. However, amendments to land development applications which were previously subject to Act 250 will remain under Act 250’s jurisdiction and criterion. This may require updates to the standards by which Act 250 reviews applications to avoid a double standard for future land changes (i.e., two parcels are undergoing similar changes, but one has a previous Act 250 permit, whereas the adjacent parcel does not).
- Transit investments, capital or operations, have not been included in the statewide Act 145 impact fees.
- Historically, Act 250 has played a limited role in the creation or funding of transit service. There may be opportunities to enhance and improve how Act 250 considers transit going forward. Especially, as to how transit agencies are involved in the review process and can inform the level of impact a land development may have. In other instances, in the locations most suitable for transit and travel demand management, those may be exempt from Act 250 and in those cases local review can be enhanced to better account for transit impacts. Finding stable, long-term funding mechanisms, and encouraging greater utilization of existing transit services is a higher priority than finding short-term, one-time developer contributions.
- One perceived benefit of Act 250 is the notion of fairness in reviewing intercommunity impacts of land development. Act 145 is designed to capture fees from trips that benefit from the project, regardless of where the project is based. Administrative guidance has

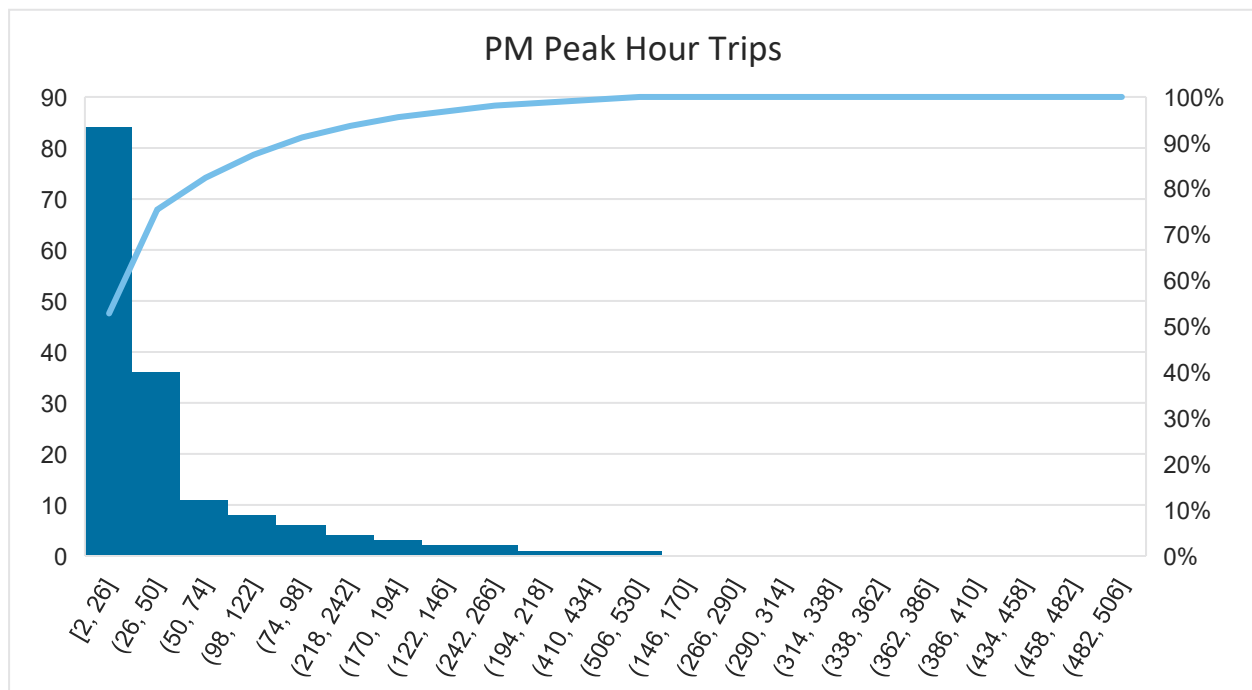
considered projects within a 5-mile distance to be eligible for funding. This is because of the distributed nature of the Act 145 process accounts for trips generated on the network much fewer than the 75 trip per PM peak hour threshold used to determine when a traffic impact study is typically required.⁷ As few as one or two peak hour trips can be assessed on an Act 145 facility.

- This geographic area widens the area of impact considered in the Act 145 process. Of the 261 individual transactions (a land use permit funds an Act 145 project), 124 of those transactions involve land development projects in a municipality different than the one where the Act 145 project exists. South Burlington land development projects make up 69 of those transactions, Essex projects make up 14, and Williston, Winooski, and Milton each make of 9. This aligns with the map (Figure 2) showing how many applicants contribute to each project. The close geographic proximity of Act 145 capital projects means a development in one of these communities is likely to impact projects in adjacent communities.
- Although the geographic impact can be widespread, the question is whether that impact is significant. The 75 has long been held as the threshold for analysis. However, the 75 threshold is not often met by the majority of the land use applications evaluated in this memo. The design of Act 145 was to create a level playing field that all developments participating in Act 250, not only the ones generating in excess of 75 vehicle trips per PM peak hour contribute to the capital project.
- Therefore, the magnitude of the impact of removing the Act 250 review for these projects may be greater on the revenue generation compared to the significance of the impact on service standards based operational analysis. For example, the \$5,000 assessed for an intersection project for 4 trips consuming that capacity, 2 miles away from the project site, may not change the Level of Service.
- Although in most cases the operational impact may be low, the concern of being the “last one in” to consume the limited spare capacity and then bear the burden of upgrading the entire facility was raised by numerous stakeholders. The Task 4 memorandum addresses this scenario and offers alternative solutions.
- Fewer than 17% of the Act 250 applicants that have been assessed Act 145 fees have generated more than 75 peak hour vehicle trips. The table below summarizes the distribution of Act 250 applicants paying Act 145 fees by the number of vehicle trips they generate.

⁷ VTrans Development Review Services. <https://vtrans.vermont.gov/planning/development-review-services>

PM trips Assessed for Act 145 Fees through Act 250	
Average	49
Max	510
Min	2
Quartile 1	10
Median	26
Quartile 3	50

FIGURE 4: DISTRIBUTION OF ACT 145 FUNDING APPLICANTS - PM PEAK HOUR TRIPS GENERATED



APPENDIX A.

TDM Actions

TDM Actions	Number of Applicants with these Actions
Bus Stop	1
Bus stop placement at location and new sidewalks	1
CATMA service	1
multi-use path	1
pedestrian improvements	1
sidewalks, crosswalks, multi-use paths	1
sidewalks, crosswalks, pedestrian warning signs	1
sidewalk	3
Sidewalk and Dedicated Shuttle	2
Sidewalk, Ride Share	1
Sidewalks	23
sidewalks and crosswalks	1
Sidewalks and Multi-Use Path	1
sidewalks and rec path	1
Sidewalks and Recreational Path	1
Sidewalks and Trail Connection	1
Sidewalks beyond 500ft	1
sidewalks, Bike Path	1
Sidewalks, Bike Path, Bustops	1
Sidewalks, Bustops, Note*	1
sidewalks, crosswalks	1
Sidewalks, Crosswalks, and Bike Paths	2
Sidewalks, Rec Path Connection, Crosswalk	1
Sidewalks, Ride Share, Bus stop across the street	1
sidewalks, shuttle	1
Sidewalks, Signalized Crosswalk	2
sidewalks/pathways	1
sidewalks/share use paths	1
sidewalks/share use paths/bus stops	1
Transit Accommodations	1
verified vanpool and rideshare	1

MEMO

TO: VTrans
FROM: RSG
DATE: October 20, 2025
SUBJECT: Task 3 – Stakeholder Feedback

Background

Act 145 of 2014-Transportation Impact Fees (10 V.S.A. Sections 6101-6111) allows the Vermont Agency of Transportation (VTrans) and Act 250 District Commissions, which are responsible for issuing state land use permits, to establish and assess transportation impact fees under certain circumstances.

This memorandum forms one of several tasks that make up the analysis that has been completed as part of the Transportation Support Study authorized by the Transportation Bill (2024). The study is in response to significant changes to policy and planning that occurred during recent Vermont Legislative sessions due, Act 47 (2023) and Act 181 (2024) which affect permitting, zoning, and regulatory actions intended to spur additional residential development.

This memorandum summarizes Task 3 of the study that conducted ten anticipated stakeholder meetings with parties identified in the enabling legislation. Study tasks completed as part of the Transportation Support Study are summarized in separate stand-alone memorandums.

Stakeholders

The enabling legislation identified the following groups to consult with during the development of the study (part c): *“The Agency shall hear from a diverse group of stakeholders including developers, local government officials, alternative transportation organizations, transit providers, and financial institutions.”*

To meet this objective the following meetings were held with invited representatives of these identified groups:

- VTrans Staff: Land Development & Permitting
- Transit Operators
- Travel Demand Management representatives and service providers
- Developers:
 - o Landowners and residential developers
 - o Advisors to developers including permit advisors, real estate advisors, civil and transportation engineering firms
- Land Use Review Board

- Municipalities and Regional Planning:
 - o VAPDA Leadership
 - o Tier 1A/1B Communities
 - o Communities exploring Tier status
- Financial Institutions

Overall Conclusions

The following conclusions are synthesized from the stakeholder meetings held with the above mentioned groups.

The following synthesized comments have been identified:

- The revenue benefit of Act 145 is not substantial. Majority of projects are re-builds or minor expansion. Projects have been focused in Chittenden County. Alternatives such as municipal impact fees or Section 1111 permits can be used. Interest to preserve the fair-share concept, especially for developments near state highways. Mobility vs access is higher priority for many state facilities.
- Transit has been poorly integrated into the review process (at both the state and local level). Providers feel left out and unsure who monitors whether they are impacted by proposed development. Some positive experiences were noted at the local level. Desire to improve coordination and communication between reviewing bodies and transit operators.
- Funding for on-going support for transit and TDM should be broad in nature. Not focused on land use development and one-time contributions. If short-term contributions are pursued, benefits should cover several years to establish behaviors – e.g., 5- or 10-year contribution periods.
- Developers, engineers, and communities are concerned that the “Last-In” scenario may arise, especially on larger and more costly roadways. Wide agreement that the Act 145 and municipal impact fees have made the mitigation process smoother.
- TDM stakeholders are less organized across the state. No authority. Very local and contextual. Interest in RPCs playing a role to review where TDM makes sense, collect and administer funding for TDM, evaluate success of TDM. Suggestions to create a handbook. Reflect priorities – TDM is less effective without transit.
- Stakeholders are familiar with level of service (vehicle: average delay per vehicle; ped: density; transit: frequency, etc.) and several noted they are not certain how these will be interpreted at the local level. Communities are unsure what standards are to be used in their reviews. Concern from communities (including those considering Tier 1 status),

developers, and engineers as to what their standards are for transportation impact and how to design appropriate mitigation.

- Consistency concerns are generally widespread. What standards are used? How are transit and TDM accounted for? How “emotion driven” project review be minimized at the local level? Generally widespread agreement of the value and consistency that state (i.e., VTrans) review has had during the project review process.
- Support for the Section 1111 process. Willingness to see application and scope expand to manage state highway mitigation and project impacts.
- Support for fees that relate the land use development process. Act 145 and municipal impact fees are seen positively, that pay for the adjacent improvements. Developers noted that other fees with less clear as to the benefits (e.g., wetland, prime agriculture soil fees, permit fees) are more difficult to understand and build into project costs.

Key Topic Specific Details

Some topics of specific interest as we conducted the stakeholder conversations included: revenue, transportation demand management, transit, and the benefits of Act 145 – specifically, avoiding or mitigating the “Last-In” scenario.

Revenue

The absolute amount of revenue raised for capital projects or transit through the review process does not appear to be a concern of those interviewed, as the relative share of project costs funded through Act 145 is low relative to the cost of the infrastructure. Only the Crescent Connector in Essex exceeds 15% of the project cost supported by Act 145 fees.

Direct transit support associated with development review and conditions imposed on land development is limited. Most operators consider bringing up permit requirements as a last resort in any negotiation for fee for services with major trip generators. In these situations, most of these entities will remain in Act 250 jurisdiction, and when there has been a permit requirement, there has also been sufficient tangible benefits for developers to engage with transit operators. Further discussion of support transit operators in situations without permit requirements is included below.

Act 145 impact fees and other fees such as Section 1111 or municipal impact fees were noted by several stakeholders to be often misconstrued or misunderstood. Any costs to a project need to be considered during the initial financing of any project – whether it is physical mitigation requirements, operational requirements, or fees. Financial institutions and developers both pointed out that these upfront costs raise the cost of the project and may result in either a) cancelling the project because the financing does not indicate that sufficient revenue will be generated to pay for the costs, or b) the project will pass those costs onto the tenant or future

occupants of the building or land. It is never absorbed by the project owner; it is always passed on.

Fees that result in funding necessary services or capacity to meet the future needs of the occupants were viewed significantly differently than fees where the results may be less tangible. Services that require long-term support such as TDM and transit were noted by all stakeholders to be better done through broad range funding mechanisms that are sustained over time (e.g., property and income taxes) and not through ad-hoc land development fees.

Transportation Demand Management

Transportation demand management (TDM) can be defined as a broad set of strategies that strive to either reduce or reallocate automobile travel to achieve benefits such as reduced roadway congestion, improved air quality, reduced energy use and greenhouse gas emissions, reduced parking demand, improved public health for those biking or walking, and reduced commuting and travel costs.

Development Review

The variety of interventions included under the umbrella of TDM makes the review and consideration of TDM in development review challenging. Larger development applicants often engage professionals that have experience with TDM aspects. For smaller development applicants, however, TDM is less frequently considered. Consistency at all scales is challenging. TDM encompasses both active travel, transit, parking and land use, and other policies such as pricing and vehicle technologies. No one entity covers the breadth of those topics.

Across the state the benefits and realistic benefits of TDM policies also vary. Several stakeholders noted improved guidance could be provided to developers concerning what constitutes TDM actions. Some stakeholders highlight the conflict that can occur when both lack of parking and lack of alternatives need to be mitigated. A stronger emphasis on the benefits of fixed route transit and then from there what can be considered to be effective TDM actions. When transit is present it makes other options more viable.

The Act 250, Section 6086 (5)(B), guidance says that TDM will be incorporated as appropriate. This has been unclear and there can be improved guidance as to what this looks like across the state. Local bylaws (e.g., zoning and subdivision) and regulations can be strengthened to achieve TDM objectives. Stakeholders noted that this guidance can be updated by VTrans and the role of RPCs can be strengthened to provide regionally specific guidance and ad-hoc support for specific applications. Stakeholders noted that the involvement of organizations focused on TDM has been limited, if at all present, during the formal development process, with the clear exceptions being the creation of the two Transportation Management Associations (TMA) associated with major transportation impacts in Burlington, VT (UVM, UVM Medical, and Champlain College) and Hanover, NH (Dartmouth College and Dartmouth Medical).

The role of regional TDM service providers and planners was noted as an area for improvement in the development review process. There are at least two regional TMAs in the state: Chittenden Area TMA in Chittenden County and Vital Communities in the Upper Valley, along with “GoVermont!”, a statewide service. A formal request to engage with the TMAs in the review process was noted as an initial way to improve the use of TDM and improve the consistency in the way TDM is applied across the state. GoVermont! and RPCs can be a resource for those areas of the state without a formal TMA. Several communities mentioned the desire to have more up to date TDM guidance and regionally contextual options (Vermont TDM guidance is dated February 2016).

Funding

TDM is similar to transit in that it often requires on-going support rather than a one-time capital investment. Education is an important service that TDM providers conduct, always reminding people of alternatives to driving alone, as well as educating new employees and residents about transportation options. This requires sustained funding for long-term behavior change.

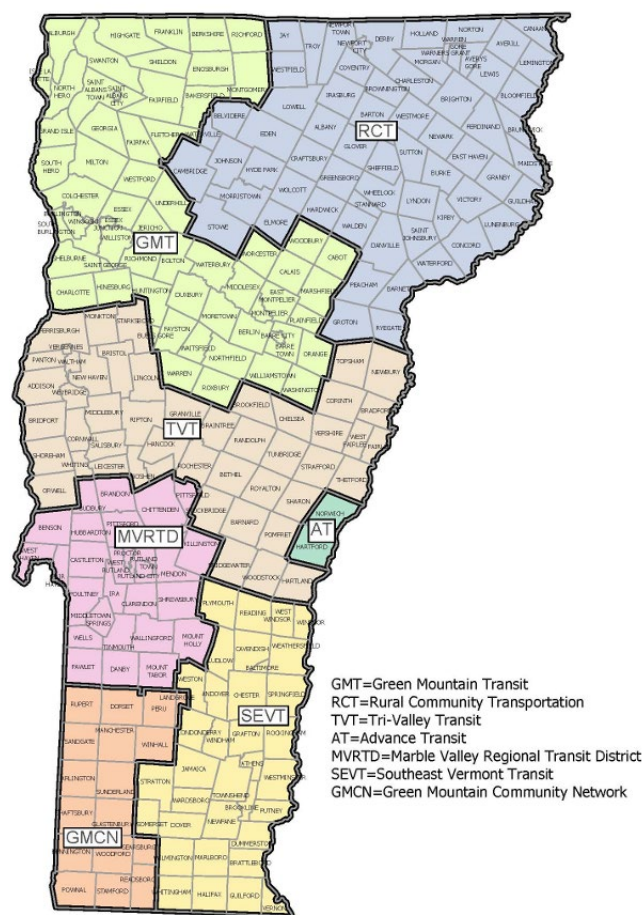
A noted challenge to TDM funding, beyond the source of the funding, is the recipient. Given the regional nature and then the very focused nature of certain TDM service providers, it isn't clear to whom and how funds should be dispersed. The RPCs were noted by stakeholders as the most logical partner to receive TDM funding and can assist with spending those funds on various TDM services. This could include infrastructure, but more likely services such as mobility on demand, micromobility options, and education and outreach.

Stakeholders widely noted the Act 145 reductions for TDM activities. The percentages ranged from 5% to 20% fee reductions. In some cases, the Act 145 fee already reflects an estimate of vehicle trips that were reduced during the traffic analysis. If the use already reduced the number of primary traffic trips because of TDM activities, and then the Act 145 TDM reduction was on-top of that net trips, it is providing additional fee reduction above what is technically warranted. Stakeholders indicate that the reduction in Act 145 fees through the TDM fee reduction isn't enough to influence site design, which is instead informed by other rules and regulations.

Transit

Public fixed route transit services are provided by several operators in the state. Each operator is unique in their organizational configuration, funding sources, and the services they offer. There are seven identified transit service areas in the state as shown in Figure 1. It was noted that for the purposes of TDM the availability and use of transit in Chittenden County is unique in Vermont. No other area of Vermont has the level of transit service and the consideration of transit and TDM needs to be reflect the various in service throughout the state.

FIGURE 1: SERVICE AREAS OF VERMONT'S PUBLIC TRANSPORTATION PROVIDERS



Map Produced by the Vermont Agency of Transportation Public Transit Section - 10/16/2023

Development Review

The stakeholder meetings identified that transit operators feel left out of the development review process. It is true that Criterion 5B seeks to assess impacts on multimodal transportation through transportation demand management that includes transit, however, our discussions seem to indicate that transit agencies are infrequently engaged during the project planning process and many operators only realize of a project that could affect operations too late in the process to effectively participate.

Several operators identified ways to improve the process, both at the state level of review under Act 250 and at an enhanced municipal level. Asking the applicant to verify the presence of fixed route or other transit options in the vicinity of the project is the first step, followed by requiring an engagement or acknowledgement of engagement between the applicant and the transit operator when there is service nearby. For situations when the land development may affect the transit system – either by adding new users or asking for changes in the route or frequency of service – there would be a written approval to proceed from the transit operator. This could occur much like the review of impacts on municipal services or education facilities, where there are letters of support to the review boards.

Each transit operator and region of the state is unique. Looking for direct engagement with the specific operator in the project area makes the most practical sense. Each operator can determine the level of effort to meet the needs of the development applicant and work with them to craft viable options for using transit.

Developer Permits and Funding

There are several other large trip generators that do not have permit requirements and they have been reticent to engage with transit operators. If the generator is already proximate to services it is less of an issue than when these locations are outside of existing fixed route services and opportunity may exist to increase services but require financial contributions to do so. Several transit operators did stress the challenge in attracting some large trip generators to participate in transit funding when they were not required to. These were considered to be in areas with limited congestion and plentiful parking.

One-off or single contributions are difficult for transit operators to incorporate into their planning; unless that fee is sufficiently large enough or scheduled to be paid over several years.

A concern noted by several transit operators is the push by land development to obtain services; when those land developments occur outside of core fixed route services, however, it is a costly and sometimes losing proposition to service those land uses. Even when funding is provided, it may not be sufficient to pay for the cost of extending a line, detouring an existing service, etc., which may adversely affect existing services.

Last-In Scenario

The “last-in” scenario has no formal definition, but is loosely agreed by stakeholders as the situation that occurs when “the scale of the identified mitigation falls beyond the reasonableness of the level of impact that the single applicant imposes on the system.’ This situation occurs when strict standards of service are used and a certain threshold is exceeded during the review of land development impacts. Prior applicants may not have had to contribute anything while their impacts were accumulating until one final applicant passes a threshold. Some stakeholders, in particular smaller municipalities, emphasized that having a number of developments along a corridor can create a particularly challenging scenario in that individual developments may not trigger any thresholds, but hold a high cumulative impact, described as a “death by 100 paper cuts.”

A “last-in” scenario was the initial impetus for initiating the Act 145 statewide transportation impact fee. It allowed capital projects identified to add capacity to the network, identified in the STIP or fully developer funded (e.g., US 5/I-91 in Derby) could be funded through the incremental land development that adds users to the facility. Rather than require the full physical mitigation to be in-place – and the full financial burden imposed on the last land development applicant – each applicant would pay a contribution relative to their level of demand.

Most stakeholders have had experience with the last-In scenario occurring and agree that Act 145 has provided a reasonable and valuable pathway to mitigate this for eligible projects. Section 1111 permits are used when a land development requires work within the public right of way and is applied on state facilities and on Class 1 Town Highways when the impact exceeds 75 vehicle trips during a peak hour. Stakeholders generally had positive views of the Section 1111 process and encouraged this study to evaluate how to better leverage it in the development review process.

Several stakeholders identified that municipalities have similar options by using municipal impact fees. Communities that have municipal impact fees expressed a general support for them to address many of these last-in scenarios by spreading the cost of additional transportation capacity across many land development applicants. A further benefit is that they are being designed to address multimodal transportation capacity rather than strictly vehicular capacity in the Act 145 fees. Some stakeholders, however, expressed concern over how impacts across municipal boundaries may or may not be accounted for in municipal impact fees. This benefit of inter-regional impacts being considered in Act 250 by VTTrans was noted. Later tasks in the Support Study evaluate how Act 145 projects might be funded through the municipal impact fee process.

MEMO

TO: VTrans
FROM: Jonathan Slason, RSG; Joe Segale
DATE: October 23, 2025
SUBJECT: Act 181 Transportation Support Study – Task 4 Memorandum

Background

Act 145 of 2014-Transportation Impact Fees (10 V.S.A. Sections 6101-6111) allows the Vermont Agency of Transportation (VTrans) and Act 250 District Commissions, which are responsible for issuing state land use permits, to establish and assess transportation impact fees under certain circumstances.

This memorandum forms one of several tasks that make up the analysis that has been completed as part of the Transportation Support Study authorized by the Transportation Bill (2024). The study is in response to significant changes to policy and planning that occurred during recent Vermont Legislative sessions due to Act 47 (2023) and Act 181 (2024) which affect permitting, zoning, and regulatory actions intended to spur additional residential development.

This memorandum summarizes Task 4 of the study focusing on strategies to preserve revenue generated by Act 145 fees, and revenue or other permit conditions that support transit and transportation demand management (TDM) services that would have been included in permits in areas now to be exempt from Act 250 jurisdiction. The strategies have been informed from the insights gained in the earlier project tasks.

Background on Revenues

The technical memo summarizing the findings from Task 2 of this study identified funds from land development that were directed to Act 145 for highway capacity and some funds directed to transit operations. TDM has not been funded through Act 145 fees or through Act 250 permit conditions.

Act 145 Revenues

The annual revenues have averaged approximately \$150k per year. Of that revenue, approximately 15% of the Act 250 permits and approximately 20% of the fees paid were derived from projects occurring in state designated centers.¹ The existing centers are presumed to be where most of the Tier 1A and Tier 1B areas will be located.

¹ Approximately \$22k per year in Act 145 revenue (after the 50% discount provided to applicants in designated centers)

The total revenues collected since the fees were established have contributed to approximately 2% of the overall costs of transportation projects for which the fees were collected. Higher contribution amounts are possible, especially in the case when the fees are used for new transportation projects that add 100% new capacity, such as the Crescent Connector in Essex Junction, as opposed to funding a much smaller marginal increase in capacity for improvements to existing projects such as adding a turn lane at an existing intersection. The 2024 Capital Program expenditure included \$86 million allocated to Roadway and Traffic and Safety.²

Transit Revenues

The land development review process conducted using Section 6086 standards in Act 250 has had little impact on the funding of transit in the state. It has been acknowledged that at least two transit systems have been supported through the development review process and included as part of Act 250 conditions (two ski mountains - Magic and Stowe). While these contributions have been important for the transit operators, the role that permits and conditions have had is understood to be limited. It is much more common that transit agencies negotiate directly with certain businesses outside of the permitting process, to provide services for a fee. In these cases, there are sufficient benefits to both parties for a financial and operational agreement. It was noted that in some instances, even when a permit condition may exist, the perceived value of the transit system was enough to continue the fee for service discussions. The transit operators noted that referencing an existing permit condition was considered a 'last resort' in the transit operators' negotiations.

Projection of Revenue

The housing targets (mid- and high-) developed for each region pursuant to Title 24, Chapter 117, Section 4348a(a)(9) are largely in excess of the recent historical growth rates for the past twenty years. The mid-point range being used in some regional plans is often double historical growth. The projection of future revenues associated with Act 145 is extremely challenging to assess given it varies on several factors including, the locations for eligible transportation projects, the amount of future growth, and the locations of land development activity that would have triggered Act 250 jurisdiction.

As a reasonable alternative to a more sophisticated approach that attempts to account for these factors, it is possible to presume that in the absence of Act 181 and the changes brought forth in Act 250 jurisdiction the following assumptions can be made.

First, land development that triggers Act 250 would occur in generally the same locations it has occurred since 2014, when the Act 145 was implemented.

² Capital Program.

<https://vtrans.vermont.gov/sites/aot/files/portal/documents/aboutus/capprog/26a/2AGENCYOFTTRANSPORTATIONSUMMARY.pdf>

Second, the trajectory of Act 145 revenue is likely to be affected by speed by which land development occurs. Two scenarios, one – without a statewide Housing Target and one achieving the Housing Target, reflect two different trajectories of land development. The first being based on historical and market trends and the second being a supply led stimulus.

- Scenario 1: In the absence of the Housing Targets and other policies that create a faster growth rate, the revenues may grow at the rate of population growth.
- Scenario 2: With the Housing Targets³ and other pro-growth policies, the revenues may be two to three times the historical average revenue. This would suggest a maximum annual revenue of \$500k per year (in today's dollars) if the growth were to occur and it were to be eligible for Act 145 fees pursuant to Act 250 jurisdiction. That revenue, while substantially larger than what is collected today, would only make up 0.5% of the annual capital expenditure in the Capital Program for roadway and traffic and safety projects. If the pro-growth policies were to manifest in additional population and jobs, there may be a need for additional transportation investments.

The Act 145 revenue that may be affected by Act 181 is expected to be a fraction of the overall Act 145 revenue. As noted above, around 20% of the Act 145 annual revenue has been collected from areas that may be exempt from Act 250 in the future. At the high end of the pro-growth scenario, this may mean around \$100k of lost revenue annually that might have otherwise been collected through Act 145.

Preservation of Revenue

Preserving the revenues can be done in several ways, however, each has its limitations. These options have been derived from conversations with stakeholders as well as evaluating specific ideas put forward in the enabling legislation for the Support Study. The revenues are considered in three categories: Act 145 revenues, Transit revenues, and TDM revenues. Each of these categories could be funded through Act 250 review of land development, and per the enabling legislation, it is the intent of this study to evaluate how to retain these revenues in light of Act 250 jurisdiction being removed from Act 181 Tier 1A and Tier 1B designated areas of the state.

Act 145 Revenues

The revenues are presumed to be directed to the Agency of Transportation to continue to fund Act 145 eligible capacity projects.

The **Section 1111 permit**⁴ is a direct connection between the Agency and the land development applicant. This permit appears to be the most reasonable candidate.

³ VHFA Housing Needs Assessment.
https://outside.vermont.gov/agency/ACCD/ACCD_Web_Docs/Housing/Housing-Needs-Assessment/2025-2029/Housing-Targets-Appendix.pdf

⁴ Section 1111 statute: <https://legislature.vermont.gov/statutes/section/19/011/01111>

Pros:

- Direct connections to state highways and class 1 town highways.
- Communication between the applicant and the Agency.
- Process for enforcement and payment of fee.
- Existing statute enables a transportation impact fee, “the Secretary may require a transportation impact fee in accordance with 10 V.S.A. chapter 151, subchapter 5.”

Cons:

- Not all development projects require a Section 1111 permit, so some projects will continue to get a free ride. Two specific conditions trigger the need for a Section 1111 permit from VTrans:
 - Development projects that require physical modifications or other activity within the state highway right of way; and
 - Development Projects when activity is required in the public right of way of a class 1 town highway and exceeds 75 peak hour vehicle trips.
- Tier 1A and 1B areas include downtowns, villages and neighborhood areas that are unlikely to have a state highway (Class 1 or not). Simply put, in most designated areas there are more miles of locally owned streets that development may occur on. Therefore, while using the VTrans Section 1111 permitting process to collect Act 145 fees will increase the number of development projects paying an Act145 fee, this strategy will still miss development projects in Tier 1A and 1B areas.
- VTrans issues approximately 500 Section 1111 permits annually. Some portion of these are for work in the right of way, like utility relocation or a sidewalk, that do not generate traffic and would therefore not require a fee. But there are also many single-residential driveways and small commercial driveways that require a Section 1111 permit. It would be administratively burdensome to evaluate all of these to determine if they are close enough to an Act 250 eligible transportation project to pay a fee.

The greatest limitation of using the Section 1111 permit to collect statewide transportation fees for trips affecting Act 145 eligible projects is the share of projects of sufficient size that will meet the thresholds for a Section 1111 permit and proximate to an Act 145 project. It is unknown the number, but based on conversations with stakeholders (summarized in Task 3 of this study), it is presumed not to be numerous. Many projects are using existing infrastructure which may limit work in the public right of way, infill developments, small developments, and those on town highways streets would not trigger a Section 1111 permit from the State.

Municipal Impact Fee

Municipal impact fees have been authorized in Vermont in Title 24 Chapter 131. They have a process by which a rational nexus is established between the land development in the

jurisdiction and the types of capital expenditures to be paid for with the fees. They are a land use regulation as opposed to general taxes. Beyond the Vermont statute, case law has shaped the application of impact fees nationally. Municipal impact fees could be designed to account for projects on the state system, with revenues returned to the state. In Vermont, a mix of projects have been identified for class 1 town highways with the local municipality using local impact fees, or the municipality collecting fees for state highways, but only the local share of the capital expenditures (i.e., 20%).

Pros:

- Enabling statute exists and has been in use for decades
- Flexibility in the design and different approaches (e.g., plan-based, buy-in, consumption see Figure 1) and application to account for multimodal transportation capacity
- Designed to address similar issues that led to the creation of Act 145 (last-in, fair share contribution to mitigation)

Cons:

- Fees are traditionally higher given the goal is revenue generation
- Timelines are shorter (6 year limit to the use of collected funds as opposed to 15 years in Act 145).
- Often designed using plan-based methods to allocate fair share contributions. This requires longer-term planning with some spatial confidence (i.e., how many people, where they will be and what will be the impact on the system) and network deficiency analysis using established standards of service (i.e., volume-to-capacity ratios, average network delay)
- Municipal scale at this time. They haven't been set up or used to share revenue between jurisdictions/municipalities.
- Establishing and administering municipal impact fees requires a level of staff capacity making it challenging for smaller towns to maintain impact fees and keep them legally compliant.

Limitations of geography and jurisdiction are the two largest impediments to using municipal impact fees for generating funding. The impacts of the project are not well accounted for outside of the municipal boundary. It is unclear whether it is legal for one municipal board to impose another community's municipal impact fee, even with impacts outside of the host community are clear. It is unclear whether AOT would be able to ask for funds collected by the municipal impact fee, even for state highway projects. A municipality would be legally required to demonstrate the nexus of including those projects and collect fees to deliver that project. The role of AOT projects and AOT jurisdiction in the municipal impact fee process would require additional investigation.

Lastly, if a municipality does not pursue local impact fees, then the State appears to have no jurisdiction to require the municipality to develop a local impact fee program. Responsibility for mitigation of impacts of municipal land use decisions would then fall to the state.

FIGURE 1: COMMON IMPACT FEE APPROACHES

Buy-In	Consumption	Plan-Based
<ul style="list-style-type: none"> • New growth is “buying in” to the cost the community already incurred to provide capacity to accommodate future growth. • Most applicable: <ul style="list-style-type: none"> • Communities are approaching build out • Oversized facilities in anticipate of future growth • <u>Otherwise known as:</u> recoupment or cost-recovery. 	<ul style="list-style-type: none"> • Ratio based expansion of existing level of service. • i.e., park acres per capita, books per household, square feet per student, etc. • Fee is based on the current cost to replicate current standards (replacement costs). • Provides flexibility as long as the expenditure meets the impact fee legal tests. • Continues the status quo by simply expanding today’s situation out into the future. • <u>Otherwise known as:</u> consumption, replacement cost, level of service 	<ul style="list-style-type: none"> • Requires a vision for a future growth horizon and what service standards will be provided. Usually reflected in a CIP, Comprehensive Plan, or Master Plan. • Goal to achieve a specific outcome of projects and investments tied to an anticipated amount of development and growth. • Best used when incremental changes won’t suffice and a larger solution can be described

Other Options

Transportation Improvement districts (TIDs), as authorized by Act 145 could be considered as described in Title 10 Chapter 151 Subchapter 5 as an alternative to municipal impact fees. They are designed to be state determined version of a municipal impact fee. The planning for a TID would be accomplished in consultation with the applicable regional planning commission. Once established, TID fees would be assessed through the Act 250 permitting process and for any project that requires a Section 1111 permit from VTrans. No TIDs have been pursued at this time. A 2019 study was completed by the Chittenden County Regional Planning Commission that explored a TID around the I-89 Exit 12 / Taft Corners area.⁵ The study provides several helpful insights into the applicability of the TID and suitability for the purposes of this study.

Pros:

- State alternative to municipal impact fees. It can be designed to work in the same areas as a municipal fee but focus on the state projects.
- Authorized in statute

⁵ I-89 Exit 12 / Taft Corners Transportation Improvement District study.
https://studiesandreports.ccrpcvt.org/wp-content/uploads/2019/04/Exit12_TID_FinalReport.pdf

- The primary benefit of a TID is a predetermined financial contribution for off-site development impacts for any land use development application within the TID, so long as the capital projects within the TID effectively mitigate the impacts of the land use development.
- In general, A TID fee is more equitable than a standard Act 145 fee because it also includes assessing fees for development projects in the TID that also need a Section 1111 permit, even if they don't need an Act 250 permit.

Cons:

- The purpose of the TID needs to be identified, is it revenue or is it a mechanism to minimize 'last-in' issues. Using the same methods as Act 145, revenue was expected to be minimal relative to the cost of the infrastructure (e.g., less than 2% of the cost of the infrastructure noted in the I-89 Exit 12 study). Although higher cost shares are possible if agreeable to all stakeholders involved in the creation of the TID.
- The enabling statute identifies the TID fees would be assessed only after a land use project requires a state highway access permit (Section 1111) or an Act 250 permit (which doesn't apply in Tier 1A and Tier 1B areas). This has the same limitations as noted above in the Section 1111 discussion.
- Adopting a TID, and more importantly collecting fees, would commit the AOT and the Legislature to funding the transportation projects that are identified in the TID. These projects would become an automatic high priority and would have to be included in the Capital Program. The AOT project prioritization processes do not currently account for these types of projects whose primary purpose is to support development. Adding these projects to the Capital Program, especially during times when overall transportation funding is limited, could come at the expense of asset management, safety and other types of projects.

Transit Revenues

The Act 250 process has been used to direct applicants to support transit options. However, these decisions and conditions were not imposed by the Act 250 Commission – rather they were either recommended conditions by VTrans, the municipality, interested parties (including project opponents), or the applicant. The Act 181 Tier 1A and Tier 1B effectively removes certain parties from the land use review permit process – namely – AOT, other adjacent municipalities, and nearby property owners outside of the local permitting jurisdiction. Local review will still consider the municipality's standards and hear from local interested parties and the applicant.

It is unclear as to whether local municipal review must consider transit and how transit is either affected by the project or whether transit can be a mitigating element of a development project. Specifically, municipal bylaws in Title 24, Chapter 117, Sections 4414 Conditional Use, 4417 Planned Unit Development, and 4418 Subdivision do make reference to off-site transportation

mitigation. It is up to each municipality to define what they use in the determination as to what is an adverse impact and what mitigation is needed.

The **opportunity exists for a local municipality to require a land development project to fund transit capital or operation expenses**. However, there is no guidance or statute looking for how transit will be affected by or can provide mitigation for the transportation impacts of land development.

Caution was noted by many municipal stakeholders to seek one-time fees to fund transit. Rather than developer contributions that occur one-time, sustained contributions either through broad based fees and taxes are preferred. If one-time fees are pursued, it is recommended that these fees be for transit related capital expenses (like new buses or transit shelters) or if operational expenses are large enough or spread out for a period of 5 to 10 years.

There is opportunity to provide guidance to municipalities as to how to account for transit in the review process. Stakeholders (see Task 3) identified several communities in Vermont who use checklists and require applicants to have evidence of engagement with the local transit operator. The operator could be asked to provide a letter stating whether the project will adversely affect the system and whether mitigation involving transit is recommended. This is like other municipal impacts such as education resources, water, etc.

Guidance can be provided by several parties including the Land Use Review Board, regional planning commissions, and the Agency of Transportation.

Beyond guidance, there is opportunity for explicit legislative language to include transit as a consideration in the municipal bylaws.

TDM Revenues

Transportation demand management (TDM) in the land development process has been focused on incentivizing and requiring multimodal connections between the project and the surrounding transportation system. There has been limited evidence of funding TDM in the land development review process. It is important to distinguish between TDM capital investments to reduce single occupant vehicle trips and the sustained on-going efforts to achieve TDM goals. One-off investments are fine for constructing sidewalks, bike lanes, transit stops, bike parking, micromobility systems, and mobility hubs. Ongoing, sustained funding is necessary for education and outreach, operational subsidies for car services such as on-demand mobility and car sharing.

Stakeholders representing TDM related service and planning organizations highlighted the benefits of sustained and dependable funding. One-off funding limits the ability to use the funds most effectively given the nature of influencing behavior changes requires time and energy to work with individuals and organizations over a period of time.

TDM is referenced in the Act 250 criterion 5B, it focuses on physical capital investments. Many of these are likely to be required by local municipalities, especially in the locations that would

have Tier 1A and Tier 1B status. It is a new **opportunity that municipalities can take advantage of that would enable them to impose operational funding on projects to meet TDM objectives of the community.** Each community will need to determine the service standards and expectations of a land development and the nexus between a land development impact and the benefits that TDM activities would have.

TDM may require additional refinement as to how it is used in the local review process. Site Plan mentions access and circulation, while other municipal bylaws in Title 24, Chapter 117, Sections 4414 Conditional Use, 4417 Planned Unit Development, and 4418 Subdivision do make reference to off-site transportation mitigation. It is up to each municipality to define what they use in the determination as to what is an adverse impact and what mitigation is needed.

Funding on-going TDM efforts will require identifying the entity to provide those services. Unfortunately, in most areas of the state TDM may not have an eligible service provider of TDM education and outreach or provider of mobility services. The regional planning commissions can be an important connector and facilitator to ensure municipalities are aware of TDM providers in the region and to possibly collect and disperse funds.

TDM stakeholders and service providers need to be involved in the land development review process to effectively identify when TDM funding should be considered. Stakeholders noted that TDM providers have been absent from most Act 250 and local development review processes. At a minimum, there is the opportunity for AOT and regional planning commissions to provide guidance on how TDM is considered in the review process. Beyond that, similar to transit, there could be specific requirements for land development applicant to demonstrate that they engaged with their local TDM organization or regional planning commission regarding TDM.

Summary

This memorandum summarizes alternative concepts to replace the revenue that has been used to fund highways (Act 145), transit, and TDM, that is expected to be lost from the removal of Act 250 jurisdiction in Tier 1A and Tier 1B areas of the state.

- Highway revenue collected through Act 145 statewide transportation impact fees has been modest relative to the overall highway capital program. It is important to note that revenue was not the driving factor in the development of this program – rather it was to address ‘last-in’ scenarios and work toward fair share contribution of costly physical investments, as well as enable development to proceed prior to the completion of mitigation measures (e.g., infrastructure upgrades).
- Transit revenue agreements between land development and transit operations have been extremely limited in the Act 250 process. Municipal review and negotiations for service have been the principal drivers for transit service agreements with specific land development.

- TDM (transportation demand management) funding through the land development process has centered on the construction of physical assets including sidewalks, bike lanes, and transit stops.

Alternative Pathways to Preserve Revenue include:

- State Section 1111 permits. These permits are obtained for work in the state right of way. Statute enables an Act 145 impact fee to be imposed. The permit focuses on safety and efficiency of the highway which using a broader interpretation of the statute could be used to require TDM investments and possibly transit, although it does not appear that the Section 1111 has been used in those more expansive ways.
- Municipal impact fees. Revenue can be raised for capital investments for multimodal transportation capacity. Challenges exist around jurisdiction and how state projects and local projects are treated and how funds are exchanged. The primary emphasis of municipal impact fees is revenue generation. Operational expenses with TDM and transit have been traditionally viewed as ineligible use of municipal impact funds.
- Transportation Improvement Districts (TIDs). Enabled by statute but not yet implemented. Similar to a municipal impact fee, this is designed and managed by the state and a partner regional planning commission. Revenue is collected during Section 1111 or Act 250 permits. With Tier 1A and Tier 1B exemptions, TIDs may be less applicable. TIDs can be designed for revenue or for fair share contributions as the goal, but it is important to acknowledge the connection between the fee and the Agency's commitment to deliver on that capital project.
- Multimodal (including highway), Transit, and TDM capital items and operational costs can all be considered at the local municipal level. Depending on the type of application and the authorizing statutes, municipal review can impose fees that mitigate the project impacts. It is essential to define the nexus between the impact and the mitigation as well as service standards that set out what level of impact requires mitigation.

APPENDIX D. END NOTES

ⁱ I-89 Exit 12 Williston TID study.

ⁱⁱ Numerous stakeholders including local development review boards, planning directors, and private land developers noted the benefits of Act 145 by facilitating fair share contributions.

ⁱⁱⁱ VTrans Transportation Program. <https://vtrans.vermont.gov/about/capital-programs>

^{iv} VTrans Act 145 Transportation Impact Fee Guidance.

<https://vtrans.vermont.gov/sites/aot/files/planning/documents/trafficresearch/Act%20145%20Guidance%20Revision%205%20-%20December%202024.pdf>

^v ITE Trip Generation. <https://www.ite.org/technical-resources/topics/trip-and-parking-generation-v2/trip-generation-info/>

^{vi} VTrans Development Review Services. <https://vtrans.vermont.gov/planning/development-review-services>

^{vii} https://studiesandreports.ccrpcvt.org/wp-content/uploads/2021/12/Transit_Funding_Report_Dec2021.pdf

^{viii} <https://anrweb.vt.gov/PubDocs/ANR/SPTemp/2W0359-35%20findings.pdf>

^{ix} VTrans Traffic Impact Study Guidelines.

<https://vtrans.vermont.gov/sites/aot/files/planning/documents/trafficresearch/TIS%20Guidelines%20Revised%20April%202019%20CGC.pdf>

^x VTrans Transportation Demand Management Guidance.

<https://vtrans.vermont.gov/sites/aot/files/planning/documents/trafficresearch/VTrans%20TDM%20Guidance%20Feb%202017.pdf>

^{xi} City of Burlington TDM Guidance. <https://www.burlingtonvt.gov/312/Transportation-Demand-Management>

^{xii} VHFA Housing Needs Assessment.

https://outside.vermont.gov/agency/ACCD/ACCD_Web_Docs/Housing/Housing-Needs-Assessment/2025-2029/Housing-Targets-Appendix.pdf

^{xiii} Section 1111 statute: <https://legislature.vermont.gov/statutes/section/19/011/01111>

^{xiv} I-89 Exit 12 / Taft Corners Transportation Improvement District study.

https://studiesandreports.ccrpcvt.org/wp-content/uploads/2019/04/Exit12_TID_FinalReport.pdf

^{xv} Federal Performance Measures. <https://www.fhwa.dot.gov/tpm/reporting/state/spg.cfm?state=Vermont>